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WORKMEN'S COMPENSATION AND INDUSTRIAL INSURANCE

UNDER MODERN CONDITIONS

The first complete presentation of the subject showing the underlying causes; explaining the effects on both employer and employee; setting forth the methods, procedure and results in actual practice; and including a full text of the statutes in force January 1, 1913, in Germany, England and the several States of America

BY

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TABLE OF CONTENTS

VOLUME TWO.

CHAPTER XIX.

THE ILLINOIS WORKMEN'S COMPENSATION ACT.

Sec.
325. Nature and scope of the act.
326. Text of Illinois Workmen's Compensation law.
327. Administration and procedure under the act.
328. List of forms to be used by employers, employés and persons having an interest under the act and the commissioners of the state bureau of labor statistics.
329. Form of employer's notice to the state bureau of his election not to accept the act. (a)
330. Form of employer's notice to the state bureau of his intention to discontinue compensation payments. (b)
331. Form of employer's notice to his employés of his intention to discontinue compensation payments (c).
332. Form of notice given by employé of his refusal to accept the act. (d)
Sec.
333. Form of statement of compensation provisions of the act, to be furnished to the employé personally or posted in the establishment. (e)
334. Form of employé's notice of injury and claim for compensation. (f)
335. Form of notice to employer of accident causing employé's death. (g)
336. Form of notice of intention to file a petition asking for the payment of a lump sum by way of compensation. (h)
337. Form of report of fatal accident, to be filed with the state bureau. (i)
338. Form of supplemental report of fatal accident, to be filed when the basis for final settlement is determined. (j)
339. Form of report of non-fatal accident, to be submitted to the state bureau. (k)

Sec.
340. Form of supplemental report of non-fatal accident, to be forwarded to the state bureau when the injured person has recovered. (l)
341. Form of report to be made by medical and surgical examiners as to the nature, extent and probable duration of employé's injury. (m)
342. Form of employé's petition for lump sum payment in lieu of installment payments. (n)
343. Form of employé's petition for a lump sum payment where there is complete disability and where compensation has been at the specified rate for at least six months. (o)
344. Form of petition by employé's administrator for lump sum payment. (p)
345. Form of employer's petition that he be permitted to make a lump sum payment, instead of instalment payments. (q)
346. Form of employer's petition for the appointment of a guardian, conservator or administrator. (r)
347. Form of employé's petition for the appointment of a third arbitrator. (s)
348. Form of report of board of arbitrators. (t)
349. Form of petition appealing from award made by board of arbitrators. (u)
350. Form of bond to be filed upon an appeal from an award made by board of arbitrators. (v)
351. Form of demand for a jury upon an appeal from an award made by board of arbitrators. (w)
352. Form of petition for the appointment of a third medical practitioner or surgeon for the purpose of determining the nature of the employé's injury. (x)
353. Form of petition for the review of an agreement or award. (y)

CHAPTER XX.

THE MICHIGAN WORKMEN'S COMPENSATION ACT.

Sec.
354. Nature and scope of act.
355. Text of the Michigan Workmen's Compensation act.
356. Letter of instructions to employers.
357. Form of employer's notice to employés that he accepts provisions of act.
358. Formal procedure—List of forms.
359. Form of employer's written acceptance. (a)
360. Form of employer's notice of withdrawal from operation of acts. (b)
361. Form of notice of employé upon entering employment that he elects not to be subject to act. (c)

Sec.
362. Form of notice by employé that he elects to be subject to provisions of act. (d)
363. Form of notice to employer of claim for injury. (e)
364. Form of first report of accident by employer. (f)
365. Form of supplementary report of accident by employer. (g)

CHAPTER XXI.

THE RHODE ISLAND WORKMEN'S COMPENSATION ACT.

Sec.
366. Nature and scope of act.
367. Text of the Rhode Island Compensation Act.
368. Administration and procedure.
369. Formal procedure under act.
370. Form of notice by employer of acceptance of provisions of act. (a)
371. Form of notice by employé of claim of right of action at common law. (b)
372. Form of notice by parent or guardian of employé of claim at common law. (c)
373. Procedure in the superior court under act.
374. Form of agreement of final adjustment. (d)
374a. Form of agreement where payments continue. (e)
374b. Form of petition by any person entitled to file under act. (f)

CHAPTER XXII.

THE ARIZONA COMPENSATION ACT.

Sec.
375. The nature and scope of act.
375a. Text of act.

CHAPTER XXIII.

THE MARYLAND COMPENSATION ACT.

Sec.
376. Nature and scope of act.
376a. Text of Maryland act.
376b. Formal procedure.

CHAPTER XXIV.

FEDERAL COMPENSATION ACTS FOR ARTISANS AND LABORERS INJURED IN THE SERVICE OF THE GOVERNMENT.

Sec.
377. Nature and scope of act.
378. Text of act of 1908.
379. Text of act of 1911.
380. Text of act of 1912.

Sec.
381. Rules and regulations.
382. Formal procedure under the Federal acts.
383. Form of notice of right to compensation.
384. Forms of filing claims.
385. Procedure in case of disability.
386. Form of immediate report of injury.
387. Form of report of termination of disability.
388. Form of report of death from injury.
389. Form of claim for compensation on account of injury.
390. Form of certificate of disability.
391. Form of request for medical examination to secure continuance of compensation beyond six months.
392. Form of report of discontinuance of compensation payments.
393. Procedure in case of death.
394. Form of claim for compention on account of death.
395. Form of notice of right to compensation.
396. Construction of the Federal acts.
397. "Injury" and "accident" defined.
398. "Injury" and "Disease without injury"—Disease contracted in the course of employment.
399. "In the course of such employment" defined.

CHAPTER XXV.

MATTERS COMMON TO THE VARIOUS AMERICAN STATUTES.

Sec.
400. Introduction.
401. Defenses which are abolished where the employer does not accept the provisions of the Compensation Act.
402. Various schemes of administration.
403. The employments covered by the Acts.
404. Who are "employers".
405. Liability of principal—Subrogation.
406. The employés covered by the acts.
407. Notice required by employer, employé and state official.
408. Injuries covered by the several acts.
409. Report of accident by employer.
410. Notice of injuries by employé.
411. Report of accident and injuries.
412. Compensation provided by the acts in the event of death and funeral expenses.
413. Who are dependents.
414. When compensation begins in case of disability.
415. Compensation for total disability.
416. Compensation paid on account of partial disability.
417. Medical and surgical aid.
418. Who are employés.

Sec.
419. The manner in which compensation is paid.
420. Commutation of awards and claims.
421. Serious, or intentional and wilful misconduct—Intoxication and drunkenness.
422. Election of remedies.
423. Alternative schemes of compensation permitted.
424. Physical examination.
425. Appeals.
426. Preference of claims for compensation.
427. Assignability and transference of rights of compensation under the acts.
428. Exemption of employers from provisions of act by contracts.
429. Penalties for refusing to comply with provisions of the acts.
430. Attorney's fees.
431. Expenses of administration of acts.

CHAPTER XXVI.

WHO ARE WORKMEN WITHIN MEANING OF STATUTE.

Sec.
432. Meaning of term "workman."
433. Partners.
434. Work on shares.
435. Work on shares—Taxicab drivers.
436. Employment in agriculture.
437. Employment by charity organizations for the unemployed.
438. Professional ballplayer a workman.
439. Term "workman" does not include policeman.
440. Casual employment.
441. Employés temporarily lent or hired.
442. Concurrent contracts of service.
443. Effect of unauthorized employment of servant.
444. Independent contractors.
445. Members of employer's family.

CHAPTER XXVII.

INJURIES FOR WHICH COMPENSATION ALLOWED.

Sec.
446. Meaning of term "accident".
447. Inference that injury a result of accident.
448. Refusal to undergo a surgical operation.
449. Injury from elements—Heat, cold and lightning.
450. Death from anaesthetic administered in operation.
451. Nervous shocks.
452. Incapacity through nervousness—Simulation.
453. Poisoning.
454. Apoplexy as an accident.
455. Injuries from inhalation of gases.
456. Injuries to sight.
457. Heart injuries.
458. Strains and ruptures.
459. Gradual paralysis.

Sec.
460. Injury while undergoing epileptic fit.
461. Occupational diseases—Apportionment between different employers.
462. Injuries from violence at the hands of a third person.
463. Acceleration of existing disease by accident.
464. Defective medical treatment.
465. Extraterritorial effect of compensation laws.
466. Whether injury must be natural or proximate cause of accident.
467. Wilful misconduct.
468. Wilful misconduct—Intoxication.
469. Wilful misconduct—Misrepresentation as to age.
470. Dismissal of incapacitated person for his own misconduct.
471. Suicide while insane.

CHAPTER XXVIII.

WHETHER SERVANT WAS IN THE COURSE OF HIS EMPLOYMENT AT THE TIME INJURIES WERE RECEIVED.

Sec.
472. Meaning of expression "accident arising out of and in the course of the employment."
473. Injury to employé on way to or from pay office.
474. Acts outside line of employment.
475. Injury while doing forbidden acts.
476. Practical jokes.
477. Injury to an employé away from the master's premises.
478. Tetanus contracted by gardener.
479. Dismissed employé on premises to remove his tools.
480. Temporary interruptions.
481. Injury during lunch hour.
482. Fall from wagon while attempting to recover personalty dropped by employé.
483. Obedience of order which should not be obeyed.
484. Attempts to save life of fellow employé.
485. Acts in emergencies.
486. Going to and returning from work.
487. Suffocation while asleep on premises of master.
488. Collector injured in course of employment.
489. Sailors and others leaving and returning to ship—Cases where accidents arise out of and in the course of employment.
490. Sailors and others leaving and returning to ship—Cases where accident did not arise out of and in the course of employment.
491. Injuries received on premises after discharge of servant.

Sec.
492. Whether work "on, in or about" a railway.
493. Malicious injuries are not received in course of employment.
494. Retroactive effect of statutes.
495. Burden of proof that accident arose out of and in the course of employment.

CHAPTER XXIX.

DEPENDENTS OF DECEASED WORKMAN.

Sec.
496. Meaning of term "dependent."
497. Mother total dependent of one of several sons.
498. Total and partial dependents of same workman.
499. Parents.
500. Aliens.
501. Paupers.
502. Posthumous children.
503. Illegitimates.
504. Where one is the dependent of more than one injured workman.
505. Mother of injured child dependent though supported by husband.
506. Wife separated from husband.
507. Presumption of death from lapse of time.
508. Right of representative of deceased dependent.
509. Necessity of appointment of administrator of dependent.
510. Death of workman under compensation not a bar to claim of dependents.

CHAPTER XXX.

LIABILITY OF PRINCIPAL CONTRACTOR—SUBROGATION—EXEMPTION CONTRACTS.

Sec.
511. Legal relation of employer and workman—When does it exist?
512. Liability of principal contractor.
513. Subrogation—Indemnity.
514. Exemption contracts.

CHAPTER XXXI.

AMOUNT OF COMPENSATION.

Sec.
515. Right to make claim for compensation is personal.
516. Compromise of claims.
517. Lump sum payment.
518. Right to compensation as dependent on proximate cause of death.

Sec.
519. Compensation for total incapacity.
520. Loss of sight—As total or permanent disability.
521. Partial incapacity due to clumsiness on recovery.
522. Exaggeration of condition.
523. Disability prolonged by failure to take exercise.
524. Pain and suffering not recompensed.
525. Average weekly earnings.
526. Average weekly earnings—Grade of employment in which injuries received.
527. Average weekly earnings—Breaks in employment.
528. Average weekly earnings—Inclusion of allowances and gratuities.
529. Average weekly earnings—Deduction of sums paid helper.
530. Average weekly earnings—Consideration of earnings of others in the same employment.
531. Reduction of compensation by reason of change of circumstances.
532. Reduction of compensation because of ability to do light work.
533. Effect of bona fide efforts to obtain employment.
534. Diminution in earnings of injured employé owing to general fall in wages.
535. Deduction of hospital fees.
536. Deduction of compensation while injured workman in prison.
537. Effect of acceptance of relief funds for injury.
538. Deductions from compensation to dependents.
539. Consideration of profits of business carried on by injured workman.
540. Effect of receiving same or increase in earnings after injury.
541. Probable earnings of infant.
542. Injuries after brief employment.
543. Death of injured workman while receiving compensation for previous injury.
544. Amount of compensation where dependent illegitimate.
545. Effect of certificate of termination of incapacity.

CHAPTER XXXII.

PROCEDURE UNDER BRITISH ACT.

Sec.
546. Election of remedies and estoppel.
547. Necessity of dispute to give arbitrator jurisdiction.
548. Agreement to pay compensation in lieu of submission to arbitration.
549. Rights of workmen against liability insurance company.
550. Recovery of over-payments made by employer.
551. Letters of administration to injured workman on estate of employer.

Sec.
552. Guardian ad litem for incompetent dependent.
553. Notice of claim for injury.
554. Necessity of stating amount of claim in notice.
555. Amendment of pleadings.
556. Demand of workman that his medical attendant be present at examination.
557. Demand that medical examination take place in attorney's office.
558. Burden of proof on application to reduce compensation.
559. Burden of proof that injury was result of accident.
560. Admissibility of declarations of injured workman.
561. Conclusiveness of certificate of medical referee.
562. Submission to medical referee.
563. Recovery from injury a question of fact.
564. Procedure for apportionment among dependents.
565. Right to make award to terminate at a fixed date.
566. Nominal award to keep proceedings alive.
567. Grant of new trial by arbitrator.
568. Employer bound by application for review.
569. Revision of award on change of circumstances of injured workman.
570. Appeal.
571. Costs and fees.

CHAPTER XXXIII.

THE BRITISH WORKMEN'S COMPENSATION AND NATIONAL INSURANCE ACT, 1911.

Sec.
572. Scope and nature of the act.
573. Construction of the act.
574. Investment of sums paid on death claims.
575. Actions independent of act.
576. Notice of accident.
577. Text of British compensation act of 1906.
578. National Insurance Act 1911 —David Lloyd George Insurance Act.

CHAPTER XXXIV.

THE IMPERIAL INDUSTRIAL INSURANCE LAWS AGAINST SICKNESS, ACCIDENTS, INVALIDITY AND OLD AGE PRIOR TO LAW OF 1911.

Sec.
579. Dr. Zacher's guide to the German law.
580. Sick insurance.
581. Extent of the insurance.
582. Accident insurance.
583. The object of the insurance.
584. The waiting period.
585. Awarding of the compensations.
586. Payments.

Sec.
587. Prevention of accidents.
588. Personal liability of the employer in relation to the obligatory Industrial Insurance Law.
589. Agricultural accident insurance law.
590. The building trades accident insurance law.
591. The marine accident insurance law.
592. Principles affecting new insurance of small enterprises.
593. Invalidity and old-age insurance.
594. Conclusion.

CHAPTER XXXV.

THE GERMAN WORKMEN'S INSURANCE CODE OF JULY 19, 1911.

Sec.
595. Introduction.
596. General features.
597. Sickness insurance.
598. Accident insurance.
599. Invalidity and survivors insurance.
600. Analysis of the code and the introductory law.

CHAPTER XXXVI.

TEXT OF GERMAN CODE OF 1911.

Sec.
601. The act.

CHAPTER XIX.

THE ILLINOIS WORKMEN'S COMPENSATION ACT.

Sec.
325. Nature and scope of the act.
326. Text of Illinois Workmen's Compensation law.
327. Administration and procedure under the act.
328. List of forms to be used by employers, employés and persons having an interest under the act and the commissioners of the state bureau of labor statistics.
329. Form of employer's notice to the state bureau of his election not to accept the act. (a)
330. Form of employer's notice to the state bureau of his intention to discontinue compensation payments. (b)
331. Form of employer's notice to his employés of his intention to discontinue compensation payments (c).
332. Form of notice given by employé of his refusal to accept the act. (d)
333. Form of statement of compensation provisions of the act, to be furnished to the employé personally or posted in the establishment. (e)
334. Form of employé's notice of injury and claim for compensation. (f)
Sec.
335. Form of notice to employer of accident causing employé's death. (g)
336. Form of notice of intention to file a petition asking for the payment of a lump sum by way of compensation. (h)
337. Form of report of fatal accident, to be filed with the state bureau. (i)
338. Form of supplemental report of fatal accident, to be filed when the basis for final settlement is determined. (j)
339. Form of report of non-fatal accident, to be submitted to the state bureau. (k)
340. Form of supplemental report of non-fatal accident, to be forwarded to the state bureau when the injured person has recovered. (l)
341. Form of report to be made by medical and surgical examiners as to the nature, extent and probable duration of employé's injury. (m)
342. Form of employé's petition for lump sum payment in lieu of installment payments. (n)
343. Form of employé's petition for a lump sum payment where there is complete

Sec.
disability and where compensation has been at the specified rate for at least six months. (o)
344. Form of petition by employé's administrator for lump sum payment. (p)
345. Form of employer's petition that he be permitted to make a lump sum payment, instead of instalment payments. (q)
346. Form of employer's petition for the appointment of a guardian, conservator or administrator. (r)
347. Form of employé's petition for the appointment of a third arbitrator. (s)
348. Form of report of board of arbitrators. (t)
Sec.
349. Form of petition appealing from award made by board of arbitrators. (u)
350. Form of bond to be filed upon an appeal from an award made by board of arbitrators. (v)
351. Form of demand for a jury upon an appeal from an award made by board of arbitrators. (w)
352. Form of petition for the appointment of a third medical practitioner or surgeon for the purpose of determining the nature of the employé's injury. (x)
353. Form of petition for the review of an agreement or award. (y)

§ 325. Nature and scope of the act.—The employer who refuses to accept the provisions of the act is denied the common law defenses of assumed risk, fellow servant and contributory negligence, but contributory negligence may be considered by the jury in reducing the amount of damages. The compensation set forth in the act are paid directly by the employer, The administration of the act shall be by agreement of the parties or through local boards of arbitration on petition of the employer and employé, whose findings are subject to appeal to the courts and the right of trial by jury is reserved.

The law covers an enumerated list of dangerous employments and all injuries growing out of them shall be recompensed unless the injury results from a deliberate intention to cause the same. It also covers all employés who are exposed to the necessary hazard of said dangerous employments.

In case of disability, compensation begins after the

first week. In death cases where an employé leaves dependents, the compensation is a sum equal to four times the average annual earnings of the deceased, but in no case shall it be less than $1,500, or shall it exceed $3,500, plus necessary medical or surgical fees. In case of death without dependents, the compensation is a sum not to exceed $150 for burial expenses. In cases of total disability the compensation is 50 per cent. of the weekly earnings for 8 years, calculated on a minimum of $5 and a maximum wage of $12, not to exceed $3,500. Where complete disability continues, then compensation is paid during life and is equal to 8 per cent. of death benefit, and not less than $10 per month. In case of partial disability, the compensation paid is 50 per cent. of loss of weekly wages, with $12 maximum per week, for not more than eight years. In cases of partial and total disability the servant is paid necessary medical, surgical and hospital expenses for eight weeks, not exceeding $200. The necessary services of physician and surgeon for eight weeks is without limit as to amount.

§ 326. Text of Illinois Workmen's Compensation law.—This act is entitled an act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment. It took effect May 1, 1912, and reads as follows:

Sec. 1. Be it enacted by the people of the state of Illinois, represented in the General Assembly: That any employer covered by the provisions of this act in this state may elect to provide and pay compensation for injuries sustained by any employé arising out of and in the course of the employment according to the provisions of this act, and thereby relieve himself from any liability for the recovery of damages, except as herein provided. If, however, any such employer shall elect

not to provide and pay the compensation to any employé who has elected to accept the provisions of this act, according to the provisions of this act he shall not escape liability for injuries sustained by such employé arising out of and in the course of his employment because

1. The employé assumed the risks of the employer's business.

2. The injury or death was caused in whole or in part by the negligence of a fellow servant.

3. The injury or death was proximately caused by the contributory negligence of the employé, but such contributory negligence shall be considered by the jury in reducing the amount of damages.

a. Every such employer is presumed to have elected to provide and pay the compensation according to the provisions of this act, unless and until notice in writing of his election to the contrary is filed with the State Bureau of Labor Statistics.

b. Every employer within the provisions of this act failing to file such notice shall be bound hereby as to all his employés who shall elect to come within the provisions of this act until January 1st of the next succeeding year and for terms of each year thereafter: Provided, any such employer may elect to discontinue the payments of compensation herein provided only at the expiration of any such calendar year, by filing notice of his intention to discontinue such payments, with the State Bureau of Labor Statistics, at least sixty days prior to the expiration of any such calendar year, and by posting such notice in the plant, shop, office or place of work, or by personal service, in written or printed form, upon such employé, at least sixty days prior to the expiration of any such calendar year.

c. In the event any employer elects to provide and pay compensation provided in this act, then every employé of such employer, as a part of his contract of hir-

ing or who may be employed at the time of the taking effect of this act and the acceptance of its provisions by the employer, shall be deemed to have accepted all the provisions of this act and shall be bound thereby unless within thirty days after such hiring and after the taking effect of this act, he shall file a notice to the contrary with the secretary of the State Bureau of Labor Statistics, whose duty it shall be to immediately notify the employer, and if so notified, the employer shall not be deprived of any of his common law or statutory defenses, and until such notice to the contrary is given to the employer, the measure of liability of the employer for any injury shall be determined according to the compensation provisions of this act: Provided, however, that before any such employé shall be bound by the provisions of this act, his employer shall either furnish to such employé personally at the time of his hiring, or post in a conspicuous place at the plant or in the room or place where such employé is to be employed, a legible statement of the compensation provisions of this act.

Sec. 2. The provisions of this act shall apply to every employer in the state engaged in the building, maintaining or demolishing of any structure; in any construction or electrical work; in the business of carriage by land or water and loading and unloading in connection therewith (except as to carriers who shall be construed to be excluded herefrom by the laws of the United States relating to liability to their employés for personal injuries while engaged in interstate commerce where such laws are held to be exclusive of all state regulations providing compensation for accidental injuries or death suffered in the course of employment); in operating general or terminal store-houses; in mining, surface mining, or quarrying; in any enterprise, or branch thereof, in which explosive materials are manufactured, handled or used in dangerous quantities; in any enterprise wherein molten metal or injurious gases

or vapors or inflammable fluids are manufactured, used, generated, stored or conveyed in dangerous quantities; and in any enterprise in which statutory regulations are now or shall hereafter be imposed for the guarding, using or the placing of machinery or appliances, or for the protection and safe-guarding of the employés therein, each of which employments is hereby determined to be especially dangerous, in which from the nature, conditions and means of prosecution of the work therein, extraordinary risks to life and limb of the employé engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to the employés therein.

Sec. 3. No common law or statutory right to recover damages for injury or death sustained by any employé while engaged in the line of his duty as such employé other than the compensation herein provided shall be available to any employé who has accepted the provisions of this act or to any one wholly or partially dependent upon him or legally responsible for his estate: Provided, that when the injury to the employé was caused by the intentional omission of the employer, to comply with statutory safety regulations, nothing in this act shall affect the civil liability of the employer. If the employer is a partnership, such omission must be that of one of the partners thereof, and if a corporation, that of any elective officer thereof.

Sec. 4. The amount of compensation which the employer who accepts the provisions of this act shall pay for injury to the employé which results in death, shall be:

a. If the employé leaves any widow, child or children, or parents or other lineal heirs to whose support he had contributed within five years previous to the time of his death, a sum equal to four times the average annual earnings of the employé, but not less in any

event than one thousand five hundred dollars, and not more in any event than three thousand five hundred dollars. Any weekly payments, other than necessary medical or surgical fees, shall be deducted in ascertaining such amount payable on death.

b. If the employé leaves collateral heirs dependent upon his earnings, such a percentage of the sum provided in section "a" as the contributions which deceased made to the support of these dependents, bore to his earnings.

c. If the employé leaves no widow or child or children, parents or lineal or collateral heirs dependent upon his earnings, a sum not to exceed one hundred and fifty dollars for burial expenses.

d. All compensation provided for in this section to be paid in case injury results in death, shall be paid in instalments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employé were paid while he was living; or if this shall not be feasible, then the installments shall be paid weekly.

e. The compensation to be paid for injuries which result in death, as provided for in this section, shall be paid to the personal representative of the deceased employé and shall be distributed by such personal representative to the beneficiaries entitled thereto, in accordance with the laws of this state relating to the descent and distribution of personal property.

Sec. 5. The amount of compensation which the employer who accepts the provisions of this act shall provide and pay for injury to the employé resulting in disability shall be:

a. Necessary first aid, medical, surgical and hospital services, also medicine and hospital services for a period not longer than eight weeks, not to exceed, however, the amount of $200.00, also necessary services of a physician or surgeon during such period of disability,

unless such employé elects to secure his own physician or surgeon.

b. If the period of disability lasts for more than six working days, and such fact is determined by the physician or physicians, as provided in section 9, compensation equal to one-half of the earnings, but not less than $5.00 nor more than $12.00 per week, beginning on the eighth day of disability, and as long as the disability lasts, or until the amount of compensation paid equals the amount payable as a death benefit.

c. If any employé, by reason of any accident arising out of and in the course of his employment, receive any serious and permanent disfigurement to the hands or face, but which injury does not actually incapacitate the employé from pursuing his usual or customary employment so that it is possible to measure compensation in accordance with the scale of compensation and the methods of computing the same herein provided, such employé shall have the right to resort to the arbitration provisions of this act for the purpose of determining a reasonable amount of compensation to be paid to such employé, but not to exceed one-quarter (¼) the amount of his compensation in case of death.

d. If after the injury has been received it shall appear upon medical examination as provided for in section 9, that the employé has been partially, though permanently incapacitated from pursuing his usual and customary line of employment, he shall receive compensation equal to one-half of the difference between the average amount which he earned before the accident and the average amount which he is earning, or is able to earn in some suitable employment or business after the accident, if such employment is secured.

e. In the case of complete disability which renders the employé wholly and permanently incapable of work, compensation for the first eight years after the day the injury was received, equal to 50 per cent of his earnings,

but not less than $5.00 nor more than $12.00 per week. If complete disability continues after the payment of a sum equal to the amount of the death benefit or after the expiration of the eight years, then a compensation during life, equal to 8 per cent of the death benefit which would have been payable had the accident resulted in death. Such compensation shall not be less than $10.00 per month and shall be payable monthly.

(1) In case death occurs before the total of the payments made equals the amount payable as a death benefit, as provided in section 4, article a, then in case the employé leaves any widow, child or children, or parents, or other lineal heirs, they shall be paid the difference between the compensation for death and the sum of such payment, but in no case shall this sum be less than $500.00.

(2) In cases of complete disability, after compensation has been paid at the specified rate for a term of at least six months, the employé shall have the privilege of filing a petition in accordance with article d of section 4 of this act, asking for a lump sum payment of the difference between the sum of the payments received and the compensation to which he was entitled when such permanent disability has been definitely determined. For the purpose of this section, blindness or the total irrecoverable loss of sight, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent paralysis of the legs or arms, and a fracture of the skull resulting in incurable imbecility or insanity, shall be considered complete and permanent disability: Provided, these specific cases of complete disability shall not, however, be construed as excluding other cases.

(3) In fixing the amount of the disability payments, regard shall be had to any payments, allowance or benefit which the employé may have received from

the employer during the period of his incapacity, except the expenses of necessary medical or surgical treatment. In no event, except in cases of complete disability as defined above, shall any weekly payment payable under the compensation plan in this section provided exceed $12.00 per week, or extend over a period of more than eight years from the date of the accident. In case an injured employé shall be incompetent at the time when any right or privilege accrues to him under the provisions of this act, a conservator or guardian of the incompetent, appointed pursuant to law, may on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employé himself had been competent and had claimed or exercised said right or privilege; and no limitations of time by this act provided, shall run so long as said incompetent employé had no conservator or guardian.

Sec. 5½. Any person entitled to compensation under this act, or any employer who shall be bound to pay compensation under this act, who shall desire to have such compensation, or any part thereof, paid in a lump sum, may petition any court of competent jurisdiction of the county in which the employé resided or worked at the time of disability or death, asking that such compensation be so paid, and if upon proper notice to the interested parties, and a proper showing made before such court, it appears to the best interest of the parties that such compensation be so paid, the court shall order payment of a lump sum, and where necessary, upon proper application being made, a guardian, conservator or administrator, as the case may be, shall be appointed for any person under disability who may be entitled to any such compensation, and an employer bound by the terms of this act, and liable to pay such compensation, may petition for such appointment where no such legal representatives have been appointed or acting for such party or parties so under disability.

Sec. 6. The basis for computing the compensation provided for in sections 4 and 5 of the act shall be as follows:

a. The compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages or earnings in the employment of the same employer during the year next preceding the injury.

b. Employment by the same employer shall be taken to mean employment by the same employer in the grade in which the employé was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

c. The annual earnings if not otherwise determinable shall be regarded as 300 times the average daily earnings in such computation.

d. If the injured person has not been engaged in the employment for a full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same or in neighboring employments of the same kind have earned during such period. And if this basis of computation is impossible, or should appear to be unreasonable, three hundred times the amount which the injured person earned on an average on those days when he was working during the year next preceding the accident, shall be used as a basis for the computation.

e. In the case of injured employés who earn either no wage or less than three hundred times the usual daily wage or earnings of the adult day laborer in the same line of industry of that locality, the yearly wage shall be reckoned as three hundred times the average daily local wage.

f. As to employés in employments in which it is the custom to operate for a part of the whole number of working days in each year, such number shall be used

instead of three hundred as a basis for computing the annual earnings, provided the minimum number of days which shall be used for the basis of the year's work shall be not less than two hundred.

g. Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment, and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employé to cover any special expense entailed on him by the nature of his employment.

h. In computing the compensation to be paid to any employé who, before the accident for which he claims compensation, was disabled and drawing compensation under the terms of this act, the compensation for each subsequent injury shall be apportioned according to the proportion of incapacity and disability caused by the respective injuries which he may have suffered.

Sec. 7. The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employés in his employment subject to the provisions of this act, and it shall not be in any way reduced by contributions from employés.

Sec. 8. If it is proved that the injury to the employé resulted from his deliberate intention to cause such injury, no compensation with respect to that injury shall be allowed.

Sec. 9. Any employé entitled to receive disability payments shall be required if requested by the employer to submit himself for examination at the expense of the employer to a duly qualified medical practitioner or surgeon selected by the employer, at a time and place reasonably convenient for the employé, as soon as practicable after the injury, and also one week after the first examination, and thereafter at intervals not oftener than once every four weeks, which examina-

tions shall be for the purpose of determining the nature, extent and probable duration of the injury received by the employé, and for the purpose of adjusting the compensation which may be due the employé from time to time for disability according to the provisions of sections 4 and 5 of this act: Provided, however, that such examination shall be made in the presence of a duly qualified medical practitioner or surgeon provided and paid for by the employé, if such employé so desires, and in the event of a disagreement between said medical practitioners or surgeons as to the nature, extent or probable duration of said injury or disability, they may agree upon a third medical practitioner or surgeon, and, failing to agree upon such third medical practitioner or surgeon, the judge of the county court of the county where the employé resided or was employed at the time of the injury, shall within six days after petition filed in such court for that purpose, select a third medical practitioner or surgeon and the majority report of such three physicians as to the nature, extent and probable duration of such injury or disability shall be used for the purpose of estimating the amount of compensation payable under this act. If the employé refuses so to submit himself to examination or unnecessarily obstructs the same, his right to compensation payments shall be temporarily suspended until such examination shall have taken place, and no compensation shall be payable under this act during such period.

Sec. 10. Any question of law or fact arising in regard to the application of this law in determining the compensation payable hereunder shall be determined either by agreement of the parties or by arbitration as herein provided. In case any such question arises which cannot be settled by agreement, the employé and the employer shall each select a disinterested party and the judge of the county court or other court of competent jurisdiction of the county where the injured employé

resided or worked at the time of the injury, shall appoint a third disinterested party, such persons to constitute a board of arbitrators for the purpose of hearing and determining all such disputed questions of law or fact arising in regard to the application of this law in determining the compensation payable hereunder; and it shall be the duty of both employé and employer to submit to such board of arbitrators not later than ten days after the selection and appointment of such arbitrators all facts or evidence which may be in their possession or under their control, relating to the questions to be determined by said arbitrators; and said board of arbitrators shall hear all the evidence submitted by both parties and they shall have access to any books, papers or records of either the employer or the employé showing any facts which may be material to the questions before them, and they shall be empowered to visit the place or plant where the accident occurred, to direct the injured employé to be examined by a regular practicing physician or surgeon, and to do all other acts reasonably necessary for a proper investigation of all matters in dispute. A copy of the report of the arbitrators in each case shall be prepared and filed by them with the State Bureau of Labor Statistics, and shall be binding upon both the employer and employé except for fraud and mistake: Provided, that either party to such arbitration shall have the right to appeal from such report or award of the arbitrators to the circuit court or the court that appointed the third arbitrator of the county where the injury occurred by filing a petition in such court within twenty days after the filing of the report of the arbitrators, and upon filing a good and sufficient bond, in the discretion of the court, and upon such appeal the questions in dispute shall be heard de novo, and either party may have a jury upon filing a written demand therefor with his petition.

Sec. 11. Any person entitled to payment under the

compensation provisions of this act from any employer shall have the same preferential claim therefor against the property of the employer as is now allowed by law for a claim by such person against such employer for unpaid wages or for personal services, such preference to prevail against wage claims of all other employés, not entitled to compensation for injuries, and the payments due under such compensation provisions shall not be subject to attachment, levy, execution, garnishment or satisfaction of debts, except to the same extent and in the same manner as wages or earnings for personal service are now subject to attachment, levy, execution, garnishment or satisfaction of debts, under the laws of this state, and shall not be assignable. Any right to receive compensation hereunder shall be extinguished by the death of the person or persons entitled thereto, subject to the provisions of this act relative to compensation for death received in the course of employment. No claim of any attorney at law for services in securing a recovery under this act shall be an enforceable lien thereon unless the amount of the same be approved in writing by a judge of a court of record, which approval may be made in term time or vacation.

Sec. 12. Any contract or agreement made by any employer or his agent or attorney with any employé or any other beneficiary of any claim under the provisions of this act within seven days after the injury shall be presumed to be fraudulent.

Sec. 13. No employé or beneficiary shall have power to waive any of the provisions of this act in regard to the amount of compensation which may be payable to such employé or beneficiary hereunder.

Sec. 14. No proceedings for compensation under this act shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof, and during such disability, and unless claim for compensation has been

made within six months after the injury, except that in case of an accident resulting in temporary disability, notice of such accident must be given to the employer within thirty days after said accident; or in case of the death of the employé or in the event of his incapacity, within six months after such death or incapacity; or in the event that payments have been made under the provisions of this act, within six months after such payments have ceased. No want or defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings by arbitration or otherwise by the employé, unless the employer proves that he is unduly prejudiced in such proceedings by such want, defect or inaccuracy. Notice of the accident shall, in substance apprise the employer of the claim of compensation made and shall state the name and address of the employé injured, the approximate date and place of the accident, if known, and in simple language the cause thereof; which notice may be served personally or by registered mail addressed to the employer at his last known residence or place of business: Provided, that the failure on the part of any person entitled to such compensation to give such notice shall not relieve the employer from his liability for such compensation, when the facts and circumstances of such accident are known to such employer or his agent, supervising work in which such employé was engaged at the time of the injury.

Sec. 15. This act shall not affect or disturb the continuance of any existing insurance, mutual aid, benefit, or relief association or department, whether maintained in whole or in part by the employer or whether maintained by the employés, the payment of benefits of such association or department being guaranteed by the employer or by some person, firm or corporation for him: Provided, the employer contributes to such association or department an amount sufficient to insure the employés or other beneficiary the full compensation herein

provided, exclusive of the cost of the maintenance of such association or department without any expense to the employé. This act shall not prevent the organization and maintaining under the insurance law of this state of any benefit or insurance company for the purpose of insuring against the compensation provided for in this act, the expense of which is maintained by the employer. This act shall not prevent the organization or maintaining under the insurance laws of this state of any voluntary mutual aid, benefit or relief association among employés for the payment of additional accident or sick benefits.

No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

Any contract of employment, relief benefit, or insurance or other device whereby the employé is required to pay any premium or premiums for insurance against the compensation provided for in this act shall be null and void, and any employer withholding from the wages of any employé any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars nor more than twenty-five dollars in each offense in the discretion of the court.

Sec. 16. Any person who shall become entitled to compensation under the provisions of this act, shall, in the event of his inability to recover such compensation from the employer on account of his insolvency, be subrogated to all the rights of such employer against any insurance company or association which may have insured such employer against loss growing out of the compensation required by the provisions of this act to be paid by such employer, and in such case only, a pay-

ment of the compensation that has accrued to the person entitled thereto in accordance with the provisions of this act, shall relieve such insurance company from such liability.

Sec. 17. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person, other than the employer, to pay damages in respect thereof:

a. The employé or beneficiary may take proceedings both against that person to cover damages and against the employer for compensation, but the amount of the compensation which he is entitled to under this act shall be reduced by the amount of damages recovered.

b. If the employé or beneficiary has recovered compensation under this act, the employer by whom the compensation was paid or the person who has been called upon to pay the indemnity under sections 4 and 5 of this act, may be entitled to indemnity from the person so liable to pay damages as aforesaid, and shall be subrogated to the rights of the employé to recover damages therefor.

Sec. 18. An agreement or award may, at any time after six months, and before eighteen months, from the date of filing, be reviewed, upon the application of either party, on the ground that the incapacity of the employé has subsequently increased or diminished. Such application shall be made to any court of competent jurisdiction; and unless the parties consent to arbitration, the court may appoint a medical practitioner to examine the employé and report upon his condition; and upon his report, and after hearing all the evidence the court may modify such agreement or award, as may be just, by ending, increasing or diminishing the compensation, subject to the limitations hereinbefore provided.

Sec. 19. It shall be the duty of every employer within the provisions of this act to send to the secretary

of the State Bureau of Labor Statistics in writing an immediate report of all accidents or injuries arising out of or in the course of the employment and resulting in death; it shall also be the duty of every such employer to report between the 15th and the 25th of each month to the secretary of the State Bureau of Labor Statistics all accidents or injuries for which compensation has been paid under this act, which accidents or injuries entail a loss to the employé of more than one week's time, and in case the injury results in permanent disability, such report shall be made as soon as it is determined that such permanent disability has resulted or will result from such injury. All such reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the nature of the injury, the length of disability and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons', and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The making of reports as provided herein shall release the employer covered by the provisions of this act from making such reports to any other officer of the state.

Sec. 20. Any person, firm or corporation who undertakes to do or contracts with others to do, or have done for him, them or it, any work embraced in section 2 of this act, requiring such dangerous employment of employés in, or about premises where he, they or it, as principal or principals, contract to do such work or any part thereof, and does not require that the compensation provided for in this act shall be insured to the employé

or beneficiary by any such person, firm or corporation undertaking to do such work and any such person, firm or corporation who creates or carries into operation any fraudulent scheme, artifice or device to enable him, them or it to execute such work without such person, firm or corporation being responsible to the employé or beneficiaries entitled to such compensation under the provisions of this act, such person, firm or corporation shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for, and be subject to all the provisions of this act.

Sec. 21. The term "employé" as used in this act shall be held to include only such persons as may be exposed to the necessary hazards of carrying on any employment or enterprise referred to in section 2 of this act. Persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employers' trade or business, are not included in the foregoing definition.

Sec. 22. Section 21 shall not be construed to include any employé engaged in any work of an incidental character unconnected with the dangers necessarily involved in carrying on any employment or enterprise referred to in section 2, or in any work of a clerical or administrative nature which does not expose the employé to the inherent hazards of any such employment or enterprise.

PENALTIES.

Sec. 23. Any willful neglect, refusal, or failure to do the things required to be done by any section, clause, or provisions of this act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, member of an arbitration board herein provided for, or with the sec-

retary of the Bureau of Labor Statistics or his deputy, in the discharge of the duties herein imposed upon any of them, or any refusal to comply with the terms of this act, shall be deemed a misdemeanor, punishable by a fine of not less than $10.00 nor more than $500, at the discretion of the court.

Sec. 23½. The right of action for damages caused by any such injury, at common law or other statute in force prior to the taking effect hereof shall not be affected by this act and every existing right of action for negligence or to recover damages for injury resulting in death, is continued and nothing in this act shall be construed as limiting the right of such action so accrued before the taking effect of this act.

Sec. 24. The invalidity of any portion of this act shall in no way affect the validity of any other portion thereof which can be given effect without such invalid part.

§ 327. Administration and procedure under the act.—The formal procedure under this act is limited to the filing of certain notices under the direction of the State Bureau of Labor Statistics and these are fully set out in the following section. The act does not create an industrial commission or board of awards to administer the act. In this respect the act is presumed to work automatically. The law simply provides for the settlement of claims by voluntary agreements of the parties, or such as may be arrived at through local boards of arbitration, which are subject to appeals to the courts and to the right of trial by jury.

§ 328. List of forms to be used by employers, employes and persons having an interest under the act and the commissioners of the state bureau of labor statistics.—The State Bureau of Labor Statistics of the State of Illinois, has prepared certain forms and the author has formulated a number of additional forms to meet the

requirements of the law. These forms are designated and entitled as follows:

(a) Employer's notice to Bureau of Labor statistics of his election not to accept the act.

(b) Employer's notice to Bureau of Labor statistics of his intention to discontinue compensation payments.

(c) Employer's notice to his employés of his intention to discontinue compensation payments.

(d) Notice given by employé of his refusal to accept the act.

(e) Statement of compensation to be posted by employer in his plant.

(f) Employé's notice of injury and claim for compensation.

(g) Notice to employer of accident causing employé's death.

(h) Notice of intention to file petition asking for payment of lump sum.

(i) Report of fatal accident to Bureau of Labor statistics.

(j) Supplemental report of fatal acicdent to Bureau when basis of final settlement determined.

(k) Report of non-fatal accident to Bureau.

(l) Supplemental report of non-fatal accident to Bureau after recovery of injured person.

(m) Report of medical and surgical examiners.

(n) Employé's petition for lump sum payment in lieu of instalment payment.

(o) Employé's petition for lump sum payment after six months in case of total disability.

(p) Petition by employé's administrator for lump sum payment.

(q) Employer's petition to make lump sum payment instead of instalment payment.

(r) Employer's petition for guardian, conservator or administrator.

(s) Petition for appointment of third arbitrator.

(t) Report of arbitrators.

(u) Petition for appeal from award of arbitrators.

(v) Appeal bond from award of arbitrators.

(w) Demand for jury on appeal from arbitrators.

(x) Petition for appointment of third physician and surgeon to determine extent of injury.

(y) Petition for review of agreement or award.

§ 329. Form of employer's notice to the state bureau of his election not to accept the act. (a)[1]

To the State Bureau of Labor Statistics of the State of Illinois, Springfield:

Notice is hereby given you, pursuant to law, that the undersigned employer (or that the undersigned partnership or that the ---------- company or corporation), being engaged in a business or occupation comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, elects not to accept or come within the purview of the said act, but the said employer (or partnership or company or corporation) hereby notifies you that he (or it) will not be obligated by the said act or any provision or provisions thereof.

(Date) ----------, 19----

(Add signature of employer. In case of a corporation, the signature of the president or secretary should be affixed, stating his official position).

§ 330. Form of employer's notice to the state bureau of his intention to discontinue compensation payments. (b)[2]

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[1] Every employer whose business is of such a character as to bring him within the statute is presumed to have elected to provide and pay the compensation according to the provisions of the act unless and until notice in writing of his election to the contrary is filed with the state bureau of labor statistics. Workmen's Compensation Law, § 1, (3a).

Every employer within the act who fails to file notice of his rejection of the law will be bound as to all employés who elect to come within the provisions of the statute until January 1 of the next succeeding year and for terms of each year thereafter. Workmen's Compensation Law, § 1, (3b).

[2] The employer has the privilege of electing to discontinue the

To the State Bureau of Labor Statistics of the State of Illinois, Springfield:

Notice is hereby given you, pursuant to law, that the undersigned employer (or that the undersigned partnership or that the _____ company or corporation), being engaged in a business or occupation comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, and having accepted the said act by operation of law and conducted his (or its) business thereunder, now elects to discontinue, from and after December 31 next ensuing, the payments of compensation provided for by the said act, and the said employer (or partnership or company or corporation) hereby notifies you that, from and after the date last aforesaid, he (or it) will not be obligated by the said act or any provision or provisions thereof.

(Date) _____, 19____

(Signature of employer. In the case of a corporation, the signature of the president or secretary should be affixed and his official position should be given.)

§ 331. Form of employer's notice to his employés of his intention to discontinue compensation payments. (c)[3]

Notice to the Employés of _____

Notice is hereby given you, pursuant to law, that the undersigned employer (or that the undersigned partnership or that the _____ company or corporation), has filed with the State Bureau of Labor Statistics of the State of Illinois, at Springfield, the following notice:

(Here insert notice sent to the state bureau, as in the preceding form).

§ 332. Form of notice given by employé of his refusal to accept the act. (d)[4]

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payments at the expiration of any calendar year. In such case he is required to file with the state bureau of labor statistics notice of his intention at least sixty days prior to the expiration of such calendar year. It is his duty also to post such notice in the plant or place of work or to serve the notice personally on such employé, at least sixty days before the expiration of the calendar year. Workmen's Compensation Law, § 1, (3b). See form immediately following.

[3] See note under the section immediately preceding.

[4] When an employer elects to come within the act, every person employed by him will be deemed, as a part of his contract of hiring,

To the State Bureau of Labor Statistics of the State of Illinois, Springfield:

Notice is hereby given you, pursuant to law, that the undersigned, who is in the employ of _____ (name of employer), of the City of _____, in the State of Illinois, engaged in a business or occupation comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, declines to accept the said act or to come within its purview or operation, and the said employé hereby notifies you that he will not be bound or obligated by the said act or any provision or provisions thereof.

(Date) _____, 19____

(Signature).

§ 333. Form of statement of compensation provisions of the act, to be furnished to the employé personally or posted in the establishment. (e)[5]

STATE OF ILLINOIS

Workmen's Compensation Act

NOTICE TO EMPLOYES

The Workmen's Compensation Act, in force May 1st, 1912, provides that before any employé shall be bound by the provisions of the Act his employer shall either furnish to the employé personally at the time of his hiring or post in a conspicuous place at the plant or in the room or place where such employé is to be employed a legibile statement of the compensation provisions of the Act.

In accordance with this statutory requirement, the undersigned

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to have accepted all the provisions of the act. He will be bound thereby unless within thirty days he files a notice to the contrary with the state bureau of labor statistics. The last-named official must then immediately notify the employer, who, when so notified, will not be deprived of any of his common law or statutory defenses. Until such notice to the contrary is given, the measure of the employer's liability for any injury will be determined according to the compensation provisions of the statute. Workmen's Compensation Law, § 1 (3c).

[5] Before any employé will be bound by the provisions of the act, his employer must either furnish to him personally at the time of hiring or post in a conspicuous place in the establishment a legible statement of the compensation provisions of the law. Workmen's Compensation Law, § 1 (3c).

(The foregoing form may be used either for personal service upon the employé or for the purpose of posting in the work place).

hereby notifies all employés of the compensation provisions of the Workmen's Compensation Act and sets forth below a legible statement of the compensation provisions thereof, to-wit:

Section 4. Amounts of Compensation to be Paid in Every Case of Injury which Results in Death of an Employé shall be:

1. If employé leaves a widow, child or children, or parents, or other lineal heirs, four times the average annual earnings of the employé, and not less than $1500 nor more than $3500.

2. If employé leaves collateral heirs only, such percentage as the contributions which deceased made to such heirs bore to his earnings.

3. If employé leaves no heirs of any kind, not to exceed $150 for burial expenses.

4. Compensation to be paid in installments equal to one-half the average earnings and paid at same intervals as wages were paid, or in weekly payments.

5. Compensation to be paid to executor or administrator for use of heirs.

Section 5. Compensation to be Paid for Every Case of Injury as follows:

1. First aid, medical, surgical and hospital services, and also medicine and hospital services for a period of not longer than 8 weeks and not to exceed $200 and necessary services of a physician or surgeon furnished by the employer during such period of disability.

2. Half wages beginning on the eighth day of the disability, but not less than $5.00 nor more than $12.00 per week up to amount of death benefit.

3. Reasonable compensation in case of serious and permanent disfigurement of the hands or face, the amount to be fixed by agreement or arbitration, and not to exceed ¼ the amount of compensation for death.

4. Partial permanent disability, one-half of the difference between the amount earned before the accident and the amount earned thereafter.

5. For complete disability, compensation for 8 years after the day the injury was received equal to 50% of his earnings, not less than $5, nor more than $12 per week, until the total paid equals the amount of the death benefit, or after the expiration of said 8 years, and thereafter compensation during life equal to 8% of the death benefit, which compensation shall not be less than $10 per month, payable monthly.

6. In all cases of disability where payments have been made as above provided and death occurs before the total amount is paid, lineal heirs shall be paid the difference between the compensation paid for death and the sum of such disability payments, but in no case less than $500.

7. Total disability shall include blindness, or the total irre-

coverable loss of sight; loss of both feet at or above the ankle; the loss of both hands at or above the wrists; the loss of one hand and one foot; an injury to the spine resulting in permanent paralysis of the legs or arms; and a fracture of the skull resulting in incurable imbecility or insanity or any other permanent disability, and after six months employé may file petition for payment of a lump sum.

8. Conservator or guardian to be appointed to receive compensation for an incompetent person or a minor.

Section 5½. Persons entitled to compensation may file petition for payment of benefits in a lump sum and court can authorize payment of such lump sum if it appears to the best interest of the parties.

Section 6. Compensation shall be computed on basis of annual earnings during the year preceding the injury and annual earnings, if not otherwise determinable, shall be 300 times the average daily earnings, and if not engaged for a full year preceding the accident, compensation shall be computed according to annual earnings of persons in same class of employment, and if this computation is impossible or unreasonable, it shall be 300 times the amount the injured person earned on an average on those days he worked with a minimum of 300 times the average daily wage. Earnings shall be based on the usual working day and shall exclude overtime earnings and also incidental payments for expenses incurred by the employé. If a person receiving compensation is again injured, the compensation for subsequent injuries shall be apportioned according to the additional incapacity or disability.

Section 7. Compensation which employer must pay shall not be reduced by any contributions from employés.

Section 8. No employé to receive compensation for an injury resulting from deliberate intention to cause such injury.

Section 9. Disabled employé required to submit to medical examination at expense of employer at the reasonable convenience of the employé after the injury, and also one week after the first examination, and thereafter not oftener than once every 4 weeks for the purpose of determining the nature, extent and probable duration of the injury, at which examination the employé may be represented by a physician, and if the two physicians disagree as to the nature, extent and probable duration of the injury, a third shall be selected by them or by the county judge, and if the employé refuses to submit to such examination, compensation to be suspended.

Section 10. All disagreements to be settled by three arbitrators, one appointed by the employer, one by the person entitled to benefits, and one by the county judge, to which arbitrators both parties shall submit all the facts within ten days and a copy of the report of such arbitrators shall be filed with the State Bureau of Labor Statistics. Said report shall be binding upon both sides

except in case of mistake, when it is provided an appeal may be taken to the Circuit Court or the Court that appointed the third arbitrator, and upon filing a good and sufficient bond; upon such appeal, either party may have a jury on filing a written demand therefor.

Section 11. Compensation is made a preferred claim and any attorney fees must be approved by the court.

Section 12. Any agreement of settlement made by the employer with the person entitled to benefits within seven days after the injury shall be presumed to be fraudulent.

Section 13. No employé or person entitled to benefits shall have power to waive any rights to compensation.

Section 14. No proceedings for compensation shall be taken unless notice is given to employer as soon as practicable after the injury and unless claim has been made within six months in case of permanent disability and within thirty days in case of temporary disability, and within six months after death or incapacity of the employé.

Notice shall state name and address of employé, date and place of accident and cause thereof, which notice may be served personally or by registered mail.

Defects in such notice shall not bar compensation, unless employer is unduly prejudiced thereby, and failure to give such notice entirely shall not relieve the employer from liability for compensation when the facts are known to the employer or to his agent supervising the work in which the employé was injured.

* * *

Section 18. After six months and prior to 18 months, the amount of disability payments may be reviewed in accordance with the increased or diminished condition of disability upon application to any court of competent jurisdiction.

Notice. The foregoing is not a complete statement of all the various provisions of the Compensation Law, but only covers the specific provisions thereof relating to compensation as required by the Act. There are many other provisions of the law which are of importance to employés and with which they should be familiar, and a complete text of the law may be had by addressing

DAVID, ROSS,
Secretary of the Bureau of Labor Statistics,
Springfield, Illinois.

§ 334. Form of employé's notice of injury and claim for compensation. (f)[6]

To _____ (name of employer):

Notice is hereby given you, pursuant to law, that _____ (name of injured employé), who is in your employ and whose ad-

[6] No proceedings for compensation under the act may be maintained unless notice of the accident is given to the employer as soon

dress is No. ____, _____ street, City of _____, and State of Illinois, met with an injury arising out of and in the course of his employment; that the accident resulting in such injury occurred on the _____ day of _____, 19____, (approximate date if known), at _____ (approximate place of accident if known); that the cause of said accident was _____ (set out the cause in simple language); and that the said _____ (name of injured employé) claims compensation therefor under and by virtue of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912.

(Date) _____, 19____

(Signature).

§ 335. Form of notice to employer of accident causing employé's death. (g)[7]

To _____ (name of employer):

Notice is hereby given you, pursuant to law, that_____ (name of deceased employé), who was in your employ at the time of the accident hereinafter mentioned and whose last address was No. ____, _____ Street, City of _____ and State of Illinois, met with an injury and accident arising out of and in the

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as practicable after the accident happens and during the disability thereby produced. Claim for compensation must be made within six months after the injury or, if there is only a temporary disability, notice is to be given within thirty days. In case of the death of the employé or in event of his incapacity, the notice must be given within six months after such death or incapacity, or, if payments have been made under the provisions of the act, then within six months after the payments have ceased. Workmen's Compensation Law, § 14.

No want or defect or inaccuracy of the notice will be a bar to the maintenance of proceedings by arbitration or otherwise by the employé unless the employer proves that he is unduly prejudiced in such proceedings by reason of such want, defect or inaccuracy. Workmen's Compensation Law, § 14.

The notice may be served personally or by registered mail, addressed to the employer at his last known residence or place of business. Workmen's Compensation Law, § 14.

Failure on the part of any person entitled to compensation to give notice will not relieve the employer from his liability if the facts and circumstances of the accident are known to the employer or to his agent supervising work in which the employé was engaged at the time of the injury. Workmen's Compensation Law, § 14.

[7] See note under section immediately preceding.

course of his employment, such injury and accident producing death; that the accident occurred on the _____ day of _____, 19____, (approximate date if known), at _____ (approximate place of accident if known); that the cause of said accident was _____ (set out the cause in simple language); that the said _____ (name of deceased employé), in consequence of said injury and accident, died on the _____ day of _____, 19____; and that compensation for such accidental death is hereby claimed under and by virtue of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912.

(Date) _____, 19____

(Signature).

§ 336. Form of notice of intention to file a petition asking for the payment of a lump sum by way of compensation. (h)[8]

To _____:

Notice is hereby given you, pursuant to law, that the undersigned will, at the next term of the _____ court of the county of _____ and State of Illinois, file a petition in said court asking that the said court enter an order directing the payment, in a lump sum, of the compensation claimed by _____ under and by virtue of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912.

(Date) _____, 19____

(Signature).

§ 337. Form of report of fatal accident, to be filed with the state bureau. (i)[9]

Date of reporting accident _____, 19____

To the Secretary of the State Bureau of Labor Statistics, Springfield, Illinois:

Nature of employer's business_____. Date of the accident _____, 19____. Hour _____ M. Date of death _____, 19____. Hour _____. Age _____ years.

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[8] Where a petition is filed asking for the payment of a lump sum instead of instalment payments, proper notice must be given to the interested parties. Workmen's Compensation Law, § 5½.

[9] The law provides that it shall be the duty of every employer within the provisions of the act to send to the secretary of the state

Sex _____. Married or single _____. Number of children _____. Number of other lineal heirs _____. Number of collateral heirs dependent _____. Direct cause of death _____. Specific occupation of the deceased _____. Nature of accident _____. Was death immediate? _____ Length of disability before death _____ days _____ hours. Number of hours comprising a day's work _____. Wages of deceased, per month $_____; per week, $_____; per day, $_____; per hour $_____. Total average yearly earnings for the four years preceding death, $_____. Amount payable to heirs, $_____. At what intervals? _____. Paid by employer for first aid, medical, surgical and hospital services, $_____. Paid for funeral or burial expenses, $_____. By whom paid if known _____. Name of employer _____. Postoffice address _____. Name and official position of person making this report _____.

§ 338. Form of supplemental report of fatal accident, to be filed when the basis for final settlement is determined. (j)[10]

Date of making this report_____, 19__.

To the Secretary of the State Bureau of Labor Statistics, Springfield, Illinois:

Nature of employer's business_____

Date of accident _____, 19____.

Date of death _____, 19____.

Wages of deceased, per month, $_____; per week, $_____; per day, $____; per hour, $_____.

Amount payable to heirs, $_____.

At what intervals _____.

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bureau of labor statistics in writing an immediate report of all accidents or injuries arising out of or in the course of the employment and resulting in death. The act prescribes the essential points of information which must be given in the report. Workmen's Compensation Law, § 19.

The foregoing form is furnished by the State Bureau of Labor Statistics and is to be used by all employers under the provisions of the act for the immediate reporting of fatal accidents, either where such accidents produce instant death or where death ensues within seven days.

[10] See note under the section immediately preceding as to the requirement of the law with reference to reporting fatal accidents.

The supplemental report is to be sent to the state bureau of labor statistics when all information required by law is obtained and the basis for final settlement has been determined.

Total amount of compensation paid to date of this report, $_____.
Total amount of compensation to be paid, $_____.
Total amount of all other expenses connected with this accident, $_____.
By whom paid _____.
Name and postoffice address of employer _____.
Name and official position of person making this report_____.

§ 339. Form of report of non-fatal accident, to be submitted to the state bureau. (k)[11]

Date of reporting accident, _____, 19____.

To the Secretary of the State Bureau of Labor Statistics, Springfield, Illinois:

Nature of employer's business _____. Date of accident or injury _____, 19____. Hour _____M. Age _____ years. Sex _____. Married or single _____. Number of children_____. Number of dependents_____. Specific occupation of injured person _____. Direct cause of injury _____. Nature of the accident _____. Nature of the injury _____. Period of disability at date of this report, being the eighth day after the accident, _____ days. Number of hours comprising a day's work_____. Wages of injured person, per month, $_____; per week, $_____; per day, $_____; per hour, $_____. Amount of compensation paid at date of this report, $_____. Amount of compensation to be paid, $_____. At what intervals _____. Amount paid for first aid: medical, surgical and hospital services, $_____. By whom paid

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[11] It is the duty of every employer within the provisions of the act to report, between the 15th and the 25th of each month, to the secretary of the state bureau of labor statistics, all accidents or injuries for which compensation has been paid under the act, which accidents or injuries entail a loss to the employé of more than one week's time. In case the injury results in permanent disability, the report must be made as soon as it is determined that such permanent disability has resulted or will result from such injury. Workmen's Compensation Law, § 19.

The foregoing form is furnished by the state bureau of labor statistics and is to be used by all employers for reporting each month non-fatal accidents or injuries occurring to employés where there is a loss to the employé of more than a week's time. No further report is required until the recovery or permanent disability or death of the employé, when a full supplemental or final report is to be submitted at the expiration of sixty days, giving the total amount of compensation paid and all other items of expense incurred in the case.

_____. Probable period of disability_____.
Name of employer _____. Postoffice address_____.
Name and official position of person making this report_____.

§ 340. Form of supplemental report of non-fatal accident, to be forwarded to the state bureau when the injured person has recovered. (l)[12]

Date of making this report_____, 19____.
To the Secretary of the State Bureau of Labor Statistics, Springfield, Illinois:

Nature of employer's business _____. Date of accident _____, 19____. Age of injured _____. Sex _____. Occupation _____. Date of recovery _____, 19____. If not recovered, state how much longer the disability is expected to last _____. Total amount paid as compensation, $_____. Total amount paid for medical, surgical and hospital services since the amount paid for first aid, $_____. Name and postoffice address of employer _____. Name and official position of person making this report _____.

§ 341. Form of report to be made by medical and surgical examiners as to the nature, extent and probable duration of employé's injury. (m)[13]

Know all men by these presents that we, _____, _____ and _____, duly qualified medical practitioners and surgeons, appointed, respectively, by_____ (name of employer), _____ (name of employé) and_____, judge of the county court of the county of _____, in the State of Illinois, pursuant to an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, and authorized and empowered, by virtue of the act of the general assembly aforesaid and by virtue of an order of the said _____, judge of the county court aforesaid, to make an examination of the said _____ (name

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[12] See note under the section immediately preceding as to the requirement of the law with reference to reporting non-fatal accidents.

The supplemental report is to be sent to the state bureau of labor statistics after the injured person has recovered.

[13] See note under form (x), § 352.

of employé) in order to determine the nature, extent and probable duration of an injury sustained by the said _____ (name of employé) arising out of and in the course of his employment, and for the purpose of adjusting the compensation which may be due him for such disability occasioned as aforesaid, do hereby certify and report that we have made the examination aforesaid, and we do further certify and report that the injury or disability of the said_____(name of employé), in our opinion, is of the following character, to-wit:_____

_____

_____

_____

(Here insert results of examination.)

In witness whereof, we have hereunto set our hands this_____ day of_____, 19__.

(Signed by a majority of the examiners.)

§ 342. Form of employé's petition for lump sum payment in lieu of instalment payments. (n)[14]

State of Illinois, }
_____County } ss.

In the _____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Employé's petition for lump sum payment under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that his occupation is that of_____; that on the_____day of_____, 19__, he was employed by_____, the defendant herein, in the capac-

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[14] The compensation, or any part of it, provided by the act may be paid in a lump sum when so ordered by a court of competent jurisdiction of the county in which the employé resided or worked at the time of his disability or death. A petition may be presented asking that the compensation be so paid. If the proper notice is given to the interested parties and a proper showing is made before the court and it appears to be to the best interests of the parties that the compensation be so paid, it is the duty of the court to order the payment to be made in a lump sum. Workmen's Compensation Law, § 5½.

If the employé desires to have only part of the compensation paid in a lump sum, change the paragraph next to the last so as to read: "Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties, and that it

ity of_____, at a certain specified rate of compensation, to-wit: the rate of_____dollars per week (or month or as the case may be), and that he so continued in the employ of the said _____up to and including the day on which the injury hereinafter mentioned was sustained and still is so employed.

Your petitioner further represents that the business or occupation in which the said_____, defendant herein, was at the time of the said injury and still is engaged was and is the business or occupation of_____; that such business or occupation is comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912; that the said_____, defendant herein, was, at the time of the injury aforesaid and still is, operating and conducting his said business or occupation under the said act and subject to the provisions thereof, and that your petitioner was engaged in work and labor as aforesaid under the said act and subject to the provisions thereof.

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is to the best interests of the said parties that the sum of_____ dollars, being a part of the aforesaid total sum of_____dollars to which he, the said petitioner is entitled, be paid to the said petitioner in a lump sum." And change the last paragraph so as to read: "Your petitioner therefore respectfully prays that the said sum of_____ dollars, being a part as aforesaid of the said total sum of_____dollars to which he, the said petitioner is entitled, be paid to him in a lump sum," etc.

If a part of the compensation has been paid in instalments, change the paragraph commencing, "Your petitioner further represents that the amount of compensation to which he was entitled," etc., to read: "Your petitioner further represents that the amount of compensation to which he was entitled when the nature of his injury was definitely determined was the sum of_____dollars, and that the said_____, defendant herein, pursuant to his duty under and by virtue of the act of the general assembly aforesaid, has made the following compensation payments to him, the petitioner, to-wit: The sum of_____ dollars on the_____day of_____, 19__, and the like sum of _____ dollars on each and every week thereafter for and during a period of_____ months (or weeks) from and after the said_____day of_____, 19__, and that the difference between the sum of the said payments so received and the compensation to which he, the said petitioner, was entitled when the nature of the aforesaid injury was definitely determined is the sum of_____dollars, and that he is now therefore entitled to receive the said last-mentioned sum of_____dollars."

Your petitioner further represents that during the period of his said employment by the said_____, defendant herein, as aforesaid, to-wit: on the_____day of_____, 19__, he, the said petitioner, met with an injury arising out of and in the course of his said employment; and that the nature, character and cause of the said injury were as follows:_____

_____

(Here insert brief description, in simple language, of the nature and cause of the accident and resulting injury.)

Your petitioner further represents that the injury aforesaid has caused (or will cause, as the case may be) permanent disability (or temporary disability, as the case may be), in this, to-wit: that he, the said petitioner, as a direct result thereof, has sustained_____ _____ (here state the nature of the injury).

Your petitioner further represents that the amount of compensation to which he was entitled when the nature of his injury was definitely determined was the sum of_____dollars; and that no part thereof has been paid to him by the said_____, defendant herein as aforesaid.

Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties, and that it is to the best interests of the said parties that the said last-mentioned sum of_____dollars be paid to the said petitioner in a lump sum.

Your petitioner therefore respectfully prays that the said last-mentioned sum of_____dollars be paid to him in a lump sum and that your honor (or your honors), by order of this honorable court, direct and require the said_____, defendant herein, to make the said lump sum payment as aforesaid; and that your honor (or your honors) may grant such other and further relief in the premises as may be equitable.

§ 343. Form of employé's petition for a lump sum payment where there is complete disability and where compensation has been paid at the specified rate for at least six months. (o)[15]

[15]In cases of complete disability, after compensation has been paid at the specified rate for a term of at least six months, the employé has the privilege of filing a petition asking for a lump sum payment of the difference between the sum of the payments received and the compensation to which he was entitled when such permanent disability was definitely determined. Workmen's Compensation Law, § 5 (e2).

The compensation, or any part of it, provided by the act may be paid in a lump sum when so ordered by a court of competent juris-

State of Illinois }
_____County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Employé's petition for lump sum payment under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that his occupation is that of_____; that on the_____day of_____, 19__, he was employed by_____, the defendant herein, in the capacity of_____, at a certain specified rate of compensation, to-wit: the rate of_____dollars per week (or month or as the case may be), and that he so continued in the employ of the said_____ _____up to and including the day on which the injury hereinafter mentioned was sustained.

Your petitioner further represents that the business or occupation in which the said_____, defendant herein, was at the time of the said injury and still is engaged was and is the business or occupation of_____; that such business or occupation is comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912; that the said_____, defendant herein, was, at the time of the injury aforesaid, and still is, operating and conducting his said business or occupation under the said act and subject to the provisions thereof, and that your petitioner was engaged in work and labor as aforesaid under the said act and subject to the provisions thereof.

Your petitioner further represents that during the period of his said employment by the said_____, defendant herein, as

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diction of the county in which the employé resided or worked at the time of his disability or death. Workmen's Compensation Law, § 5½.

The following are examples of complete and permanent disability: Blindness or the total irrecoverable loss of sight; the loss of both feet at or above the ankle; the loss of both hands at or above the wrist; the loss of one hand and one foot; an injury to the spine resulting in permanent paralysis of the legs or arms; a fracture of the skull resulting in incurable imbecility or insanity. This enumeration of specific instances of complete disability is not to be construed, however, as excluding other cases. Workmen's Compensation Law, § 5 (e2).

aforesaid, to-wit: on the_____day of_____, 19__, he, the said petitioner, met with an injury arising out of and in the course of his said employment; and that the nature, character and cause of the said injury were as follows: _____

_____

(Here insert brief description, in simple language, of the nature and cause of the accident and resulting injury.)

Your petitioner further represents that the injury aforesaid has caused (or will cause, as the case may be) permanent disability, in this, to-wit: that he, the said petitioner, as a direct result thereof, has suffered blindness and the total irrecoverable loss of sight (or state any other manifestation of complete disability, as the case may require).

Your petitioner further represents that, the said_____, defendant herein, pursuant to his duty under and by virtue of the act of the general assembly aforesaid, has made the following compensation payments to him, the petitioner, to-wit: The sum of _____dollars on the_____day of_____, 19__, and the like sum of_____dollars on each and every week thereafter for and during a period of at least six months from and after the said_____day of_____, 19__; and that the difference between the sum of the said payments so received and the compensation to which he, the said petitioner, was entitled, when the aforesaid permanent disability was definitely determined, is the sum of _____dollars.

Your petitioner further represents that it is to the best interests of the said parties that the said last-mentioned sum of_____ dollars be paid to the said petitioner in a lump sum.

Your petitioner therefore respectfully prays that the said last-mentioned sum of_____dollars be paid him in a lump sum and that your honor (or your honors), by order of this honorable court, direct and require the said_____, defendant herein, to make the said lump sum payment as aforesaid; and that your honor (or your honors) may grant such other and further relief in the premises as may be equitable.

§ 344. Form of petition by employé's administrator for lump sum payment. (p)[16]

[16] Where an injury results in death, the employer is liable to pay compensation as follows: (1) If the employé leaves a widow, child or children or parents or other lineal heirs to whose support he had contributed within five years previous to the time of his death, compensation is to be allowed in a sum equal to four times the average annual earnings of the employé, but not less in any event than one thousand five hundred dollars and not more in any event than three thousand five hundred dollars; and any weekly

State of Illinois
_____ County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Petition by employé's administrator under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that he is the administrator of the estate of_____, deceased; that during the lifetime of the said_____(name of deceased employé), to-wit: on the

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payments, other than necessary medical or surgical fees, are to be deducted in ascertaining such amount payable on death; (2) if the employé leaves collateral heirs dependent upon his earnings, the compensation is to be such a percentage of the sum provided for above as the contributions which the deceased employé made to the support of these dependents bore to his earnings; (3) if the employé leaves no widow or child or children, parents or lineal or collateral heirs dependent upon his earnings, the sum to be allowed is not to exceed one hundred and fifty dollars for burial expenses; (4) the compensation is to be paid in instalments equal to one-half the average earnings, at the same intervals at which the wages or earnings of the employé were paid while he was living, or, if this is not feasible, then the instalments are to be paid weekly; (5) the compensation is to be paid to the personal representative of the deceased employé and is to be distributed by the personal representative to the beneficiaries entitled thereto, in accordance with the laws of Illinois relative to the descent and distribution of personal property. Workmen's Compensation Law, § 4.

In case part of the compensation has been paid in instalments, change the paragraph commencing, "Your petitioner further represents that the amount of compensation to which the said widow and child," etc., to read as follows: "Your petitioner further represents that the amount of compensation to which the said widow and child (or other heirs, as the case may be) were entitled at the time of the decease of the said_____(name of deceased employé) was the sum of_____dollars, and that weekly payments other than necessary medical and surgical fees have been made by the said_____, defendant herein, as follows, to-wit: The sum of_____dollars on the_____day of_____, 19__, and the like sum of_____dollars on each and every week thereafter for and during a period of_____weeks from the date of the first payment as aforesaid; and that, after deducting the

_____day of_____, 19__, he, the said_____(name of deceased employé), was employed by_____, the defendant herein, in the capacity of_____, at a certain specified rate of compensation, to-wit: the rate of_____dollars per week (or month or as the case may be), and that the said_____(name of deceased employé) continued in the employ of the said_____, defendent herein, up to and including the day on which the fatal injury hereinafter mentioned was sustained.

Your petitioner further represents that the business or occupation in which the said_____, defendant herein, was at the time of the said fatal injury and still is engaged was and is the business or occupation of_____; that such business or occu-

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total amount of the said payments from the said sum of_____ dollars due at the time of the decease of the said_____ (name of deceased employé), there now remains a balance due the estate of the said_____(name of deceased employé) of _____dollars.

If it is desired to have only a part of the compensation paid in a lump sum, change the paragraph next to the last so as to read: "Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties, and that it is to the best interests of the said parties that the sum of_____ dollars, being a part of the aforesaid sum of_____dollars due the estate of the said_____(name of deceased employé), be paid to the petitioner in a lump sum." And change the last paragraph so as to read: "Your petitioner therefore respectfully prays that the said sum of_____dollars, being a part of the said sum of_____dollars due the estate of the said_____ (name of deceased employé) as aforesaid, be paid to him in a lump sum," etc.

The compensation or any part of it, provided by the act may be paid in a lump sum when so ordered by a court of competent jurisdiction of the county in which the employé resided or worked at the time of his disability or death. A petition may be presented asking that the compensation be so paid. If the proper notice is given to the interested parties and a proper showing is made before the court and it appears to be to the best interests of the parties that the compensation be so paid, it is the duty of the court to order the payment to be made in a lump sum. Workmen's Compensation Law, § 5½.

Where the necessity exists and the proper application is made, a guardian, conservator or administrator must be appointed for any person under disability who is entitled to compensation under the act. An employer bound by the terms of the act and liable to pay such compensation may petition for such appointment where no legal representatives have been appointed or are acting for the person under disability. Workmen's Compensation Law, § 5½.

pation is comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912; that the said_____, defendant herein, was at the time of the happening of the fatal injury aforesaid and still is, operating and conducting his said business or occupation under the said act and subject to the provisions thereof; and that the said_____ (name of deceased employé), was, at the time of the fatal injury aforesaid, engaged in work and labor as aforesaid under the said act and subject to the provisions thereof.

Your petitioner further represents that during the period of the said employment of the said_____(name of deceased employé) by the said_____, defendant herein, as aforesaid, to-wit: on the_____day of_____, 19__, he, the said_____ (name of deceased employé), met with an injury and accident arising out of and in the course of his employment, such injury and accident producing death; that the said accident occurred at_____ _____(approximate place of accident); that the cause of the said accident was_____(set out the cause in simple language); and that the said_____(name of deceased employé), in consequence of the said injury and accident, died on the_____ day of_____, 19__.

Your petitioner further represents that the said_____ (name of deceased employé), at the time of his decease, left him surviving, his widow, _____, and one child, _____, of the age of_____ years, to whose support he, the said_____ (name of deceased employé) had contributed within five years previous to the time of his decease (or set out the facts showing that he was survived by other lineal or collateral heirs).

Your petitioner further represents that that the amount of compensation to which the said widow and child (or other heirs, as the case may be) were entitled at the time of the decease of the said _____(name of deceased employé) was the sum of_____ dollars and that no weekly payment or payments of any kind other than necessary medical and surgical fees were made by the said _____, defendant herein, to the said_____(name of deceased employé) or to any person or persons entitled thereto.

Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties, and that it is to the best interests of the said parties that the said last-mentioned sum of_____dollars be paid to the said petitioner in a lump sum.

Your petitioner therefore respectfully prays that the said last-mentioned sum of_____dollars be paid to him in a lump sum and that your honor (or your honors), by order of this honorable

court, direct and require the said_____, defendant herein, to make the said lump sum payment as aforesaid; and that your honor (or your honors) may grant such other and further relief in the premises as may be equitable.

§ 345. Form of employer's petition that he be permitted to make a lump sum payment, instead of instalment payments. (q)[17]

State of Illinois }
_____ County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____
v.
_____

Employer's Petition for lump sum payment under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that he is engaged in the business or occupation of_____, in the City of_____ and the county and state aforesaid; that on the___day of____, 19__, one_____, the defendant herein, was employed by your peti-

[17] The compensation, or any part of it, provided for by the act may be paid in a lump sum when so ordered by a court of competent jurisdiction of the county in which the employé resided or worked at the time of his disability or death. A petition may be presented, as well by the employer as by the employé, asking that the compensation be so paid. If the proper notice is given to the interested parties and a proper showing is made before the court and it appears to be to the best interests of the parties that the compensation be so paid, it is the duty of the court to order the payment to be made in a lump sum. Workmen's Compensation Law, § 5½.

If the employer desires to pay only a part of the compensation in a lump sum, change the paragraph next to the last so as to read: "Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties and that it is to the best interests of the said parties that the sum of_____ dollars, being a part of the aforesaid total sum of_____ dollars to which the said_____, defendant herein, is entitled, be paid to the said_____, defendant herein, in a lump sum." And change the last paragraph so as to read: "Your petitioner therefore respectfully prays that the said sum of_____ dollars, being a part as aforesaid of the said total sum of_____ dollars to which the said_____, defendant herein, is entitled,

tioner, in the capacity of_____, at a certain specified rate of compensation, to-wit: the rate of_____dollars per week (or month or as the case may be), and that he, the said_____ continued in the employ of your petitioner up to and including the day on which the injury hereinafter mentioned was sustained and still is so employed.

Your petitioner further represents that the business or occupation in which he, your petitioner, was at the time of the said injury and still is engaged was and is the aforesaid business or occupation of_____; that such business or occupation is comprehended within the scope and meaning of an act of the general assembly of the State of Illinois entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912; and that he, your petitioner, was at the time of the injury aforesaid and still is operating and conducting his said business or occupation under the said act and subject to the provisions thereof; and that the said_____, defendant herein, was engaged in work and labor as aforesaid under the said act and subject to the provisions thereof.

Your petitioner further represents that during the period of the said employment of the said_____, defendant herein, by your petitioner, to-wit: on the_____day of_____, 19__, he, the said_____, defendant herein, met with an injury arising out of

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be paid to the said_____, defendant herein, in a lump sum," etc.

If a part of the compensation has been paid in instalments, change the paragraph commencing, "Your petitioner further represents that the amount of compensation to which the said_____, defendant herein, was entitled," etc., to read: "Your petitioner further represents that the amount of compensation to which the said_____, defendant herein, was entitled when the nature of his injury was definitely determined was the sum of_____ dollars, and that your petitioner, pursuant to his duty under and by virtue of the act of the general assembly aforesaid, has made the following compensation payments to him, the said_____, defendant herein, to-wit: The sum of_____dollars on the _____day of_____, 19__, and the like sum of_____ dollars on each and every week thereafter for and during a period of_____months (or weeks) from and after the said_____day of _____, 19__, and that the difference between the sum of the said payments so received by the said_____, defendant herein, and the compensation to which he, the said_____, defendant herein, was entitled when the nature of the aforesaid injury was definitely determined is the sum of_____dollars, and that the said_____, defendant herein, is now entitled to receive the said last-mentioned sum of_____dollars."

and in the course of his said employment; and that the nature, character and cause of the said injury were as follows:_____

_____

(Here insert brief description, in simple language, of the nature and cause of the accident and resulting injury.)

Your petitioner further represents that the injury aforesaid has caused (or will cause, as the case may be) permanent disability (or temporary disability, as the case may be), in this, to-wit: that he, the said_____, defendant herein, as a direct result thereof, has sustained_____ (here state the nature of the injury).

Your petitioner further represents that the amount of compensation to which the said_____, defendant herein, was entitled when the nature of his injury was definitely determined was the sum of_____dollars; and that no part thereof has been paid to him by your petitioner.

Your petitioner further represents that a proper notice of this proceeding has been given to the interested parties, and that it is to the best interests of the said parties that the said last-mentioned sum of_____dollars be paid to the said_____, defendant herein, in a lump sum.

Your petitioner therefore respectfully prays that the said last-mentioned sum of_____dollars be paid to the said_____, defendant herein, in a lump sum and that your honor (or your honors), by order of this honorable court, direct and require the said_____, defendant herein, to accept and receive the said sum of_____dollars so paid in a lump sum payment as aforesaid, in full satisfaction and discharge of your petitioner's liability; and that your honor (or your honors) may grant such other and further relief in the premises as may be equitable.

§ 346. Form of employer's petition for the appointment of a guardian, conservator or administrator. (r)[18]

[18]Where the necessity exists and the proper application is made, a guardian, conservator or administrator must be appointed for any person under disability who is entitled to compensation under the act. An employer bound by the terms of the act and liable to pay such compensation may petition for such appointment where no legal representatives have been appointed or are acting for the person under disability. Workmen's Compensation Law, § 5½.

In the case of a petition for the appointment of an administrator, change the paragraph commencing, "Your petitioner further represents that, during the period of the said employment," etc., so as to read: "Your petitioner further represents that, during the period of the said employment of the said_____ (name of employé) by your petitioner, to-wit: on the_____day of

State of Illinois }
---------- County } ss.

In the----------Court.
To the----------Term, A. D. 19--.

In the Matter of the
Estate of

Employer's petition for the appointment of a guardian (or conservator or administrator) under the Workmen's Compensation Law.

To the Honorable Judge of the said Court:

Your petitioner respectfully represents that he is engaged in the business or occupation of----------, in the City of---------- and the county and state aforesaid, and that one----------, at the time of the injury (or fatal injury) hereinafter mentioned, was in the employ of your petitioner.

Your petitioner further represents that the business or occupation in which he, your petitioner, was at the time of the said injury (or said fatal injury) and still is engaged was and is a business or occupation comprehended within the scope and meaning of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912; and that your petitioner was at the time of the injury (or fatal injury) aforesaid and still is operating and conducting his said business or occupation under the said act and subject to the provisions thereof, and that the said----------(name of employé) was engaged in work and labor as aforesaid under the said act and subject to the provisions thereof.

Your petitioner further represents that, during the period of the

---

----------, 19--, he, the said----------(name of employé), met with an injury arising out of and in the course of his said employment, the said injury afterward, to-wit: on the-------day of----------, 19--, producing the death of the said----------(name of employé), and that in consequence thereof your petitioner is made liable by law to pay compensation to the said----------(name of employé) in the manner and upon the terms specified in the act of the general assembly aforesaid." And change the paragraph next to the last so as to read: "Your petitioner further represents that it is to the best interests of the parties hereto that an administrator be appointed to administer the estate of the said----------(name of employé) in order that compensation payments may be made by your petitioner in the proper manner and to the proper person.

said employment of the said_____(name of employé) by your petitioner, to-wit: on the_____day of_____, 19__, he, the said_____(name of employé), met with an injury arising out of and in the course of his said employment and that in consequence thereof your petitioner is made liable by law to pay compensation to the said_____(name of employé) in the manner and upon the terms specified in the act of the general assembly aforesaid.

Your petitioner further represents that the said_____(name of injured employé) is a minor of the age of_____years (or is a person of unsound mind or as the case may be); that no legal representative has been appointed or is acting for him, the said _____(name of injured employé); and that it is to the best interests of the parties that a guardian (or conservator) be appointed for the said_____(name of employé) in order that compensation payments may be made by your petitioner in the proper manner and to the proper person.

Your petitioner therefore respectfully prays that your honor appoint a suitable and competent person as guardian (or conservator) of the said_____(name of employé) to whom your petitioner may pay the compensation provided for by the act of the general assembly aforesaid and discharge himself from further liability thereunder.

§ 347. Form of employé's petition for the appointment of a third arbitrator. (s)[19]

State of Illinois } ss.
_____ County }

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Petition for appointment of arbitrator under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that his occupation is, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.

Your petitioner further represents that the business or occupa-

[19]Any question of law or fact arising in regard to the application of the act in determining the compensation is to be decided either by agreement of the parties or by arbitration. If any question arises that cannot be settled by agreement, the employer and the employé must each select a disinterested arbitrator and the

tion in which, etc. (Continue to the end of the paragraph as in form for Employé's Petitition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that during the period of his said employment, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that the injury aforesaid has caused, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that the amount of compensation to which he was entitled, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that certain questions of fact (or certain questions of law or certain questions of law and fact) have arisen in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder; that such questions cannot be settled by agreement of the parties; and that, pursuant to the provisions of the said act, your petitioner has appointed a disinterested party, to-wit: _____ of_____as his arbitrator, and the said_____, defend-

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third is to be appointed by the judge of the county court or other court of competent jurisdiction of the county where the injured employé resided or worked at the time of the injury. Workmen's Compensation Law, § 10.

It is the duty of the employer and the employé to submit to the board of arbitrators, not later than ten days after the appointment of the board, all facts or evidence in their possession or under their control relating to the questions to be determined. The board is to hear all the evidence submitted by both parties and is to have access to any books, papers or records of employer or employé showing any material facts. The arbitrators are empowered to visit the place where the accident occurred, to direct the injured employé to be examined by a surgeon and to do all other acts reasonably necessary for a proper investigation. Workmen's Compensation Law, § 10.

A copy of the report of the arbitrators must be prepared by them in each case and filed with the State Bureau of Labor Statistics. Except for fraud or mistake, it will be binding upon both the employer and the employé. Workmen's Compensation Law, § 10.

Within twenty days after the arbitrators have filed their report with the state bureau, either party may appeal to the circuit court or to the court that appointed the third arbitrator of the county where the injured occurred. Workmen's Compensation Law, § 10.

ant herein, has appointed a disinterested party, to-wit: _____ of_____as his (or its) arbitrator, for the purpose of constituting, together with a third disinterested party to be appointed by your honor, a board of arbitrators to hear and determine all such disputed questions of fact (or of law or of law and fact) arising in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder.

Your petitioner therefore respectfully prays that your honor appoint a third disinterested party, pursuant to the act of the general assembly aforesaid, in order that such disinterested third party, together with the two arbitrators hereinbefore mentioned may constitute a board of arbitrators for the purpose of hearing and determining all such disputed questions of fact (or of law or of law and fact) arising in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder.

§ 348. Form of report of board of arbitrators. (t)[20]

State of Illinois }
_____ County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Report of Board of Arbitrators, under the Workmen's Compensation Law.

Know all men by these presents that we, _____, _____ and _____, constituting a board of arbitrators for the purpose of hearing and determining all disputed questions of fact (or disputed questions of law or disputed questions of law

[20]It is the duty of the employer and the employé to submit to the board of arbitrators, not later than ten days after the appointment of the board, all facts or evidence in their possession or under their control relating to the questions to be determined. The board is to hear all the evidence submitted by both parties and is to have access to any books, papers or records of employer or employé showing any material facts. The arbitrators are empowered to visit the place where the accident occurred, to direct the injured employé to be examined by a surgeon and to do all other acts reasonably necessary for a proper investigation. Workmen's Compensation Law, § 10.

A copy of the report of the arbitrators must be prepared by them in each case and filed with the state bureau of labor statistics. Except for fraud or mistake, it will be binding upon both the employer and the employé. Workmen's Compensation Law, § 10.

and fact) arising in regard to the application of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, in determining the compensation payable thereunder, duly empowered and authorized to act under and by virtue of the act of the general assembly aforesaid and under and by virtue of an order of the said court entered in the above entitled cause on the_____day of _____, 19__, do declare and publish that, not later than ten days after our appointment as a board, all facts or evidence in the possession or under the control of the parties hereto, relating to the questions to be determined, were submitted to us by the aforesaid parties; that we have heard all the evidence submitted by both parties and have had access to all books, papers and records of the said parties showing any material facts; that we have visited the place where the accident occurred, have directed the said_____, the injured employé, to be examined by a surgeon and have done all other acts reasonably necessary to a proper investigation of the said disputed questions; and being fully advised in relation to the premises we do make, publish and declare our award as follows, to-wit:

We do hereby find that_____

_____

_____

(Here insert the findings of the board.)

In witness whereof, we have hereunto set our hands this_____ day of_____, 19__.

_____

_____

_____

§ 349. Form of petition appealing from award made by board of arbitrators. (u)[21]

State of Illinois }
_____ County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Appeal from award of Board of Arbitrators, under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of said Court:

Your petitioner respectfully represents that, by virtue of an

[21]Within twenty days after the arbitrators have filed their report

order duly entered by this honorable court (or by the_____ court of the county aforesaid), on the_____day of_____, 19__, in the matter of a petition filed by_____, under the authority and provisions of an act of the general assembly of the State of Illinois, entitled, "An act to promote the general welfare of the people of this state, by providing compensation for accidental injuries or death suffered in the course of employment," approved June 10, 1911, in force May 1, 1912, a disinterested party, to-wit: _____of_____, was appointed by this honorable court (or by the_____court of the county aforesaid), for the purpose of constituting, together with two other disinterested parties, to-wit: _____of_____and_____of_____, appointed by the parties to the petition aforesaid, a board of arbitrators to hear and determine all disputed questions of fact (or of law or of law and fact) arising in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder.

Your petitioner further represents that the said board of arbitrators, on the_____day of_____, 19__, made, published and declared their finding and award as follows, to-wit:

_____

_____

_____

(Here insert text of the award.)

Your petitioner further represents that the aforesaid finding and award of the said board of arbitrators is incorrect and erroneous (or is fraudulent) and that the said finding and award should have been of a wholly different character.

Your petitioner therefore respectfully prays that an appeal may be allowed to this honorable court from the finding and award aforesaid and that the said questions in dispute may be tried de novo.

§ 350. Form of bond to be filed upon an appeal from an award made by board of arbitrators. (v)[22]

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with the state bureau of labor statistics, either party may appeal to the circuit court or to the court that appointed the third arbitrator of the county where the injury occurred. A petition must be filed and with it a good and sufficient bond, in the discretion of the court. Upon such appeal, the questions in dispute are to be tried de novo and either party may have a jury upon filing with his petition a written demand therefor. Workmen's Compensation Law, § 10.

[22]Within twenty days after the arbitrators have filed their report with the State Bureau of Labor Statistics, either party may appeal to the circuit court or the court that appointed the third arbitrator of the county where the injury occurred. A petition must be filed

State of Illinois }
---------- County } ss.

In the----------Court.
To the----------Term, A. D. 19--.

---

v.

Appeal Bond.

Know all men by these presents that we,----------, principal, and----------and----------, sureties, are held and firmly bound unto----------, in the penal sum of----------dollars, to the payment of which, well and truly to be made, we hereby bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of this obligation is such that, whereas the above-bounden----------has prayed an appeal from the finding and award of the board of arbitrators in the above entitled cause to the ----------court of the county aforesaid:

Now, therefore, if the said above-bounden----------shall prosecute the said appeal with effect and pay to the said---------- without delay all damages, costs and expenses that may be incurred by the said----------by reason and in case of the dismissal of the said appeal, then this obligation to be void; otherwise to remain in full force and virtue.

----------Seal.
----------Seal.
----------Seal.

§ 351. Form of demand for a jury upon an appeal from an award made by board of arbitrators. (w)[23]

State of Illinois }
---------- County } ss.

In the----------Court.
To the----------Term, A. D. 19--.

---

v.

Demand for a Jury.

The undersigned hereby demands a jury for a trial of the questions and issues involved in the above entitled cause.

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and with it a good and sufficient bond, in the discretion of the court. Workmen's Compensation Law, § 10.

[23]Where an appeal is taken from an award made by a board of arbitrators, either party may have a jury upon filing with his petition a written demand therefor. Workmen's Compensation Law, § 10.

§ 352. Form of petition for the appointment of a third medical practitioner or surgeon for the purpose of determining the nature of the employé's injury. (x)[24]

State of Illinois
---------- County } ss.

In the----------Court.
To the----------Term, A. D. 19--.

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v.

Petition for the appointment of an examiner, under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said court:

Your petitioner respectfully represents that his occupation is, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that the business or occupation in which, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that during the period of his

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[24]When an employé is injured, he may be required, if the employer so desires, for the purpose of determining the basis of compensation, to submit to medical examinations at the latter's expense. The medical examiner in such case is to be selected by the employer. But the workman may have the examinations made in the presence of his own physician and surgeon, appointed and paid for by him. If the two surgeons disagree, they are empowered to name a third, or if they are unable to agree upon a choice, the judge of the county court of the county where the employé resided or was employed at the time of the injury is to make the selection. In the last-mentioned event, however, a petition must be filed in court for that purpose. Workmen's Compensation Law, § 9.

The judge is required to name the third examiner within six days after the petition is filed. Workmen's Compensation Law, § 9.

A majority report of the three practitioners is to be used as the basis of estimating the injured employé's compensation. Workmen's Compensation Law, § 9.

If the workman refuses to submit to such examinations or unnecessarily obstructs them, his right to compensation payments will be suspended until the examinations are made. Workmen's Compensation Law, § 9.

said employment, etc. (Continue as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that, pursuant to the act of the general assembly aforesaid, a duly qualified medical practitioner or surgeon, to-wit: _____of_____, was appointed by the said_____(name of employer), for the purpose of making an examination of the said_____(name of employé) in order to determine the nature, extent and probable duration of the said injury and for the purpose of adjusting the compensation which may be due the said_____(name of employé) from time to time for such disability occasioned as aforesaid; that a second duly qualified medical practitioner or surgeon, to-wit:_____of _____, was appointed by the said_____(name of employê) for the purpose of assisting in and being present at the medical or surgical examination aforesaid; and that the two medical practitioners or surgeons aforesaid have disagreed as to the nature, extent and probable duration of the said injury or disability and, further, are unable to agree upon the selection of a third medical practitioner or surgeon.

Your petitioner therefore respectfully prays that, pursuant to the provisions of the act of the general assembly aforesaid, your honor appoint, within six days from the date of the filing of this petition, a third medical practitioner or surgeon, in order that a majority report of the said three medical practitioners or surgeons may be used for the purpose of estimating the amount of compensation payable under the act of the general assembly aforesaid.

§ 353. Form of petition for the review of an agreement or award. (y)[25]

State of Illinois }
_____ County } ss.

In the_____Court.
To the_____Term, A. D. 19__.

_____

v.

_____

Petition for the Review of an award (or an agreement) under the Workmen's Compensation Law.

To the Honorable Judge (or Judges) of the said Court:

Your petitioner respectfully represents that his occupation is, etc. (Continue to the end of the paragraph as in form for Em-

[25]An agreement or award may, at any time after six months and before eighteen months from the date of filing, be reviewed, upon the application of either party, on the ground that the incapacity of the

ployé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that the business or occupation in which, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that during the period of his said employment, etc. (Continue to the end of the paragraph as in form for Employé's Petition for lump sum payment in lieu of instalment payments.)

Your petitioner further represents that certain questions of fact (or certain questions of law or certain questions of law and fact) arose in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder; that such questions could not be settled by agreement of the parties; that, pursuant to the provisions of the said act, your petitioner appointed a disinterested party, to-wit: _____ of_____ as his arbitrator, and the said_____(name of the other party, employer or employé) appointed a disinterested party, to-wit: _____of_____as his (or its) arbitrator, and this honorable court (or the_____court of the county aforesaid), on the _____day of_____, 19__, by an order duly entered of record, appointed a third disinterested party, to-wit:_____ of_____, for the purpose of constituting, together, a board of arbitrators for the purpose of hearing and determining all disputed questions of fact (or of law or of law and fact) arising in regard to the application of the act of the general assembly aforesaid in determining the compensation payable thereunder.

Your petitioner further represents that the said board of arbitrators, on the_____day of_____, 19__, made, published and declared their finding and award as follows, to-wit:

_____

_____

_____

(Here insert text of the award.)

Your petitioner further represents that, since the date of the

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employé has subsequently increased or diminished. Workmen's Compensation Law, § 18.

The application is to be made to any court of competent jurisdiction. Workmen's Compensation Law, § 18.

Unless the parties consent to arbitration, the court may appoint a medical practitioner to examine the employé and report upon his condition. Workmen's Compensation Act, § 18.

Upon the report of the medical examiner and upon hearing all the evidence, the court may modify the agreement or award, as may be just, by ending, increasing or diminishing the compensation, subject to the limitations provided by the act. Workmen's Compensation Law, § 18.

finding and award by the board of arbitrators aforesaid, the incapacity or disability of the said_____(name of employé) has increased (or diminished, as the case may be), in this, to-wit:

_____

_____

(Here insert statement showing in what manner and to what extent the incapacity has increased or diminished); and that the said finding and award, in consequence of the premises, is not now suited or adapted to the needs of the said_____(name of employé) and is not responsive to the spirit and intent of the provisions of the act of the general assembly aforesaid.

Your petitioner therefore respectfully prays that your honor will appoint a competent medical practitioner or surgeon to examine the said_____(name of employé) and report upon the condition of the said_____(name of employé), and that such award may be modified in such manner and to such extent as may be just; and that your honor may grant such other and further relief in the premises as may be equitable.

CHAPTER XX.

THE MICHIGAN WORKMEN'S COMPENSATION ACT.

Sec.
354. Nature and scope of act.
355. Text of the Michigan Workmen's Compensation act.
356. Letter of instructions to employers.
357. Form of employer's notice to employés that he accepts provisions of act.
358. Formal procedure—List of forms.
359. Form of employer's written acceptance. (a)
360. Form of employer's notice of withdrawal from operation of acts. (b)
361. Form of notice of employé upon entering employment that he elects not to be subject to act. (c)
362. Form of notice by employé that he elects to be subject to provisions of act. (d)
363. Form of notice to employer of claim for injury. (e)
364. Form of first report of accident by employer. (f)
365. Form of supplementary report of accident by employer. (g)

§ 354. Nature and scope of act.—Compensation is allowed for all injuries to workmen without regard to negligence except where such negligence is wilful. The employer is denied the common-law defenses. Fifty per cent of the earnings of the employé are paid to him during disability after the third week. If disability continues for eight weeks or longer, compensation shall be computed from the date of the injury. In case of total disability the compensation runs for 500 weeks if the total disability lasts so long with a maximum of $10 and minimum of $4 compensation per week but in no case may the compensation amount to more than $4,000. The compensation to be paid direct heirs of a workman killed is the same except that the weekly compensation runs only for 300 weeks and in no case is to exceed $3,000. Compensation to be paid indirect heirs, on account of funeral expenses and surgeon and hospital bills,

and for injuries causing partial disability, is carefully provided for in the law. The law is compulsory as to the State, and counties, cities, incorporated villages, townships and school districts, and all employés of the State and of such municipalities, but this does not include employés of contractors engaged in performing work of the State or any such municipality.

It is optional as to all private employers, including public service corporations, and their employes, except that it contains a qualifying section governing employers and workmen engaged in interstate commerce.

The law does not apply to employés in agricultural and domestic service, neither is it applicable to those employers who elect, with the approval of the Industrial Accident Board, to pay compensation in the manner and to the extent provided by law; nor will such employer be subject to any other liability whatsoever, save as provided by this law for death or personal injury to employés.

The act gives to every member the option, subject to the approval of the Industrial Accident Board, to carry his own risk if he can satisfy the board of his financial ability to do so; or to insure in any employers' liability insurance company authorized to take risks in Michigan; or to insure in any employers' mutual association for the organization of which provision is made in this law; or to request the Commissioner of Insurance to assume the administration of the collection and disbursement of such funds.

The law provides for the adjustment of claims for compensation by agreement of the parties, or by a board of arbitration, or by a judgment of a superior court of proper jurisdiction on petition of party in interest.

Weekly payments made under the act may be reviewed by the Industrial Accident Board at the request of the employer, or the insurance company carrying such risks or the commissioner of insurance as the case

may be, or of the employé; and on such review it may be ended, diminished or increased, subject to the maximum and minimum amounts provided in the scales of compensations, if the board finds that the facts warrant such action.

Appeals from agreements, awards, judgments and rulings of the Industrial Accident Board to the superior courts and the Supreme court are allowed.

Compensations payable under the act can not be assigned, attached or garnisheed and are made a first lien against all the property of the employer except for wages and for taxes.

§ 355. Text of the Michigan workmen's compensation act.—The statute is divided into six parts and became effective September 1, 1912.

PART I—MODIFICATION OF REMEDIES.

Sec. 1. In an action to recover damages for personal injury sustained by an employé in the course of his employment, or for death resulting from personal injuries so sustained, it shall not be a defense:

(a) That the employé was negligent, unless and except it shall appear that such negligence was wilful;

(b) That the injury was caused by the negligence of a fellow employé;

(c) That the employé had assumed the risks inherent in or incidental to, or arising out of his employment, or arising from the failure of the employer to provide and maintain safe premises and suitable appliances.

Sec. 2. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by household domestic servants and farm laborers.

Sec. 3. The provisions of section one shall not apply to actions to recover damages for the death of, or for personal injuries sustained by employés of any employer who has elected, with the approval of the indus-

trial accident board hereinafter created, to pay compensation in the manner and to the extent hereinafter provided.

Sec. 4. Any employer who has elected, with the approval of the industrial accident board hereinafter created, to pay compensation as hereinafter provided, shall not be subject to the provisions of section one; nor shall such employer be subject to any other liability whatsoever, save as herein provided for the death of or personal injury to any employe, for which death or injury compensation is recoverable under this act, except as to employés who have elected in the manner hereinafter provided not to become subject to the provisions of this act.

Sec. 5. The following shall constitute employers subject to the provisions of this act:

1. The state and each county, city, township, incorporated village and school district therein;

2. Every person, firm and private corporation, including any public service corporation, who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employé for which compensation under this act may be claimed, shall in the manner provided in the next section, have elected to become subject to the provisions of this act, and who shall not, prior to such accident, have effected a withdrawal of such election, in the manner provided in the next section.

Sec. 6. Such election on the part of the employers mentioned in subdivision two of the preceding section, shall be made by filing with the industrial accident board hereinafter provided for, a written statement to the effect that such employer accepts the provisions of this act, and that he adopts, subject to the approval of said board, one of the four methods provided for the payment of the compensation hereinafter specified. The filing of such statement and the approval of said board shall operate, within the meaning of the preceding sec-

tion, to subject such employer to the provisions of this act and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year each, unless such employer shall, at least thirty days prior to the expiration of such first or any succeeding year, file in the office of said board a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this act: Provided, however, That such employer so electing to become subject to the provisions of this act shall, within ten days after the approval by said board of his election filed as aforesaid, post in a conspicuous place in his plant, shop, mine or place of work, or if such employer be a transportation company, at its several stations and docks, notice in the form as prescribed and furnished by the industrial accident board to the effect that he accepts and will be bound by the provisions of this act.

Sec. 7. The term "employé" as used in this act shall be construed to mean:

1. Every person in the service of the state, or of any county, city, township, incorporated village or school district therein, under any appointment, or contract of hire, express or implied, oral or written, except any official of the state, or of any county, city, township, incorporated village or school district therein: Provided, That one employed by a contractor who has contracted with a county, city, township, incorporated village, school district or the state, through its representatives, shall not be considered an employé of the state, county, city, township, incorporated village or school district which made the contract:

2. Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and also including minors who are legally permitted to work under the laws of the state who, for

the purposes of this act, shall be considered the same and have the same power to contract as adult employés, but not including any person whose employment is but casual or is not in the usual course of the trade, business, profession or occupation of his employer.

Sec. 8. Any employé as defined in subdivision one of the preceding section shall be subject to the provisions of this act and of any act amendatory thereof. Any employé as defined in subdivision two of the preceding section shall be deemed to have accepted and shall be subject to the provisions of this act and of any act amendatory thereof if, at the time of the accident upon which liability is claimed:

1. The employer charged with such liability is subject to the provisions of this act, whether the employé has actual notice thereof or not; and

2. Such employé shall not, at the time of entering into his contract of hire, express or implied, with such employer, have given to his employer notice in writing that he elects not to be subject to the provisions of this act; or, in the event that such contract of hire was made before such employer became subject to the provisions of this act, such employé shall have given to his employer notice in writing that he elects not to be subject to such provisions, or without giving either of such notices shall have remained in the service of such employer for thirty days after the employer has filed with said board an election to be subject to the terms of this act. An employé who has given notice to his employer in writing as aforesaid that he elects not to be subject to the provisions of this act, may waive such claim by a notice in writing, which shall take effect five days after it is delivered to the employer or his agent.

PART II—COMPENSATION.

Sec. 1. If an employé who has not given notice of his election not to be subject to the provisions of this act, as provided in part one, section eight, or who has

given such notice and has waived the same as hereinbefore provided, receives a personal injury arising out of and in the course of his employment by an employer who is at the time of such injury subject to the provisions of this act, he shall be paid compensation in the manner and to the extent hereinafter provided, or in case of his death resulting from such injuries such compensation shall be paid to his dependents as hereinafter defined.

Sec. 2. If the employé is injured by reason of his intentional and wilful misconduct, he shall not receive compensation under the provisions of this act.

Sec. 3. No compensation shall be paid under this act for any injury which does not incapacitate the employé for a period of at least two weeks from earning full wages, but if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury: Provided, however, That if such disability continues for eight weeks or longer, such compensation shall be computed from the date of the injury.

Sec. 4. During the first three weeks after the injury the employer shall furnish, or cause to be furnished, reasonable medical and hospital services and medicines when they are needed.

Sec. 5. If death results from the injury, the employer shall pay, or cause to be paid, subject, however, to the provisions of section twelve hereof, in one of the methods hereinafter provided, to the dependents of the employé, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week for a period of three hundred weeks from the date of the injury. If the employé leaves dependents only partly dependent upon his earnings for support at the time of his injury, the weekly compensation to be paid as aforesaid shall be equal to the same proportion of the weekly payments

for the benefit of persons wholly dependent as the amount contributed by the employé to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employé before his death the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury.

Sec. 6. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employé:

(a) A wife upon a husband with whom she lives at the time of his death;

(b) A husband upon a wife with whom he lives at the time of her death;

(c) A child or children under the age of sixteen years (or over said age, if physically or mentally incapacitated from earning) upon the parent with whom he is or they are living at the time of the death of such parent, there being no surviving parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them. In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency. No person shall be considered a dependent, unless a member of the family of the deceased employé, or bears to him the relation of husband or widow, or lineal descendant, or ancestor, or brother, or sister.

Sec. 7. Questions as to who constitute dependents

and the extent of their dependency shall be determined as of the date of the accident to the employé, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions; and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto, or their legal guardians or trustees. In case of the death of one such dependent his proportion of such compensation shall be payable to the surviving dependents pro rata. Upon the death of all such dependents compensation shall cease. No person shall be excluded as a dependent who is a non-resident alien. No dependent of an injured employé shall be deemed, during the life of such employé, a party in interest to any proceeding by him for the enforcement of collection of any claim for compensation, nor as respects the compromise thereof by such employé.

Sec. 8. If the employé leaves no dependents the employer shall pay, or cause to be paid as hereinafter provided, the reasonable expense of his last sickness and burying, which shall not exceed two hundred dollars.

Sec. 9. While the incapacity for work resulting from the injury is total, the employer shall pay, or cause to be paid as hereinafter provided, to the injured employé a weekly compensation equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor shall the total amount of all compensation exceed four thousand dollars.

Sec. 10. While the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid as hereinafter provided, to the injured employé a weekly compensation equal to one-half the difference between his average weekly wages before the injury and the average weekly wages which he is able to

earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury. In cases included by the following schedule the disability in each such case shall be deemed to continue for the period specified, and the compensation so paid for such injury shall be as specified therein, to-wit:

For the loss of a thumb, fifty per centum of the average weekly wages during sixty weeks;

For the loss of a first finger, commonly called index finger, fifty per centum of average weekly wages during thirty-five weeks;

For the loss of a second finger, fifty per centum of average weekly wages during thirty weeks;

For the loss of a third finger, fifty per centum of average weekly wages during twenty weeks;

For the loss of a fourth finger, commonly called little finger, fifty per centum of average weekly wages during fifteen weeks;

The loss of the first phalange of the thumb, or of any finger, shall, be considered to be equal to the loss of one-half of such thumb, or finger, and compensation shall be one-half the amounts above specified;

The loss of more than one phalange shall be considered as the loss of the entire finger or thumb: Provided, however, That in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

For the loss of a great toe, fifty per centum of average weekly wages during thirty weeks;

For the loss of one of the toes other than a great toe, fifty per centum of average weekly wages during ten weeks.

The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe,

and compensation shall be one-half of the amount above specified.

The loss of more than on phalange shall be considered as the loss of the entire toe;

For the loss of a hand, fifty per centum of average weekly wages during one hundred and fifty weeks.

For the loss of an arm, fifty per centum of average weekly wages during two hundred weeks;

For the loss of a foot, fifty per centum of average weekly wages during one hundred and twenty-five weeks;

For the loss of a leg, fifty per centum of average weekly wages during one hundred and seventy-five weeks;

For the loss of an eye, fifty per centum of average weekly wages during one hundred weeks;

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall constitute total and permanent disability, to be compensated according to the provisions of section nine.

The amounts specified in this clause are all subject to the same limitations as to maximum and minimum as above stated.

Sec. 11. The term "average weekly wages" as used in this act is defined to be one fifty-second part of the average annual earnings of the employé. If the injured employé has not worked in the employment in which he was working at the time of the accident, whether for the employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he has earned in such employment during the days when so employed. If the injured employé has not worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average

daily wage or salary which an employé of the same class working substantially the whole of such immediately preceding year in the same or a similar employment in the same or a neighboring place, shall have earned in such employment during the days when so employed. In cases where the foregoing methods of arriving at the average annual earnings of the injured employé cannot reasonably and fairly be applied, such annual earnings shall be taken at such sum as, having regard to the previous earnings of the injured employé, and of other employés of the same or most similar class, working in the same or most similar employment, in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employé at the time of the accident in the employment in which he was working at such time. The fact that an employé has suffered a previous disability, or received compensation therefor, shall not preclude compensation for a later injury, or for death, but in determining compensation for the later injury, or death, his average annual earnings shall be such sum as will reasonably represent his annual earning capacity at the time of the later injury in the employment in which he was working at such time, and shall be arrived at according to and subject to the limitations of the provisions of this section. The weekly loss in wages referred to in this act shall consist of such percentage of the average weekly earnings of the injured employé, computed according to the provisions of this section, as shall fairly represent the proportionate extent of the impairment of his earning capacity in the employment in which he was working at the time of the accident, the same to be fixed as of the time of the accident, but to be determined in view of the nature and extent of the injury.

Sec. 12. The death of the injured employé prior to the expiration of the period within which he would

receive such weekly payments shall be deemed to end such disability, and all liability for the remainder of such payments which he would have received in case he had lived shall be terminated, but the employer shall thereupon be liable for the following death benefits in lieu of any further disability indemnity:

If the injury so received by such employé was the proximate cause of his death, and such deceased employé leaves dependents, as hereinbefore specified, wholly or partially dependent on him for support, the death benefit shall be a sum sufficient, when added to the indemnity which shall at the time of death have been paid or become payable under the provisions of this act to such deceased employé, to make the total compensation for the injury and death exclusive of medical and hospital services and medicines furnished as provided in section four hereof, equal to the full amount which such dependents would have been entitled to receive under the provisions of section five hereof in case the accident had resulted in immediate death, and such benefits shall be payable in weekly installments in the same manner and subject to the same terms and conditions in all respects as payments made under the provisions of said section five.

Sec. 13. No savings or insurance of the injured employé, nor any contribution made by him to any benefit fund or protective association independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than those paid or caused to be paid by the employer as herein provided, be considered in fixing the compensation under this act.

Sec. 14. If an injured employé is mentally incompetent or is a minor at the time when any right or privilege accrues to him under this act, his guardian or next friend may in his behalf claim and exercise such right or privilege.

Sec. 15. No proceedings for compensation for an injury under this act shall be maintained, unless a notice of the injury shall have been given to the employer three months after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employé, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.

Sec. 16. The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by person in his behalf, or, in the event of his death, by his dependents or by a person in their behalf.

Sec. 17. The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering said notice to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.

Sec. 18. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mislead, and the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, was in fact misled thereby. Want of such written notice shall not be a bar to proceedings under this act, if it be shown that the employer had notice or knowledge of the injury.

Sec. 19. After an employé has given notice of an injury, as provided by this act, and from time to time thereafter during the continuance of his disability, he

shall, if so requested by the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state, furnished and paid for by the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be. The employé shall have the right to have a physician provided and paid for by himself present at the examination. If he refuses to submit himself for the examination, or in any way obstructs the same, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited. Any physician who shall make or be present at any such examination may be required to testify under oath as to the results thereof.

Sec. 20. No agreement by an employé to waive his rights to compensation under this act shall be valid.

Sec. 21. No payment under this act shall be assignable or subject to attachment or garnishment, or be held liable in any way for any debts. In case of insolvency every liability for compensation under this act shall constitute a first lien upon all the property of the employer liable therefor, paramount to all other claims or liens except for wages and taxes, and such liens shall be enforced by order of the court.

Sec. 22. Whenever any weekly payment has been continued for not less than six months, the liability therefor may be redeemed by the payment of a lump sum by agreement of the parties, subject to the approval of the industrial accident board, and said board may at any time direct in any case, if special circumstances be found which in its judgment require the same, that the deferred payments be commuted on the present worth thereof at five per cent per annum to one or more lump sum payments, and that such payments shall be made by the employer or the insurance company carry-

ing such risk, or commissioner of insurance, as the case may be.

PART III—PROCEDURE.

Sec. 1. There is hereby created a board which shall be known as the Industrial Accident Board, consisting of three members to be appointed by the governor, by and with the consent of the senate, one of whom shall be designated by the governor as chairman. Appointments to fill vacancies may be made during recesses of the senate, but shall be subject to confirmation by the senate at the next ensuing session of the legislature. The term of office of members of this board shall be six years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second year for the full term of six years. No more than two members of this board shall belong to the same political party.

Sec. 2. The salary of each of the members so appointed by the governor shall be three thousand five hundred dollars per year. The board may appoint a secretary at a salary of not more than two thousand five hundred dollars a year, and may remove him. The board shall be provided with an office in the capitol, or in some other suitable building in the city of Lansing, in which its records shall be kept, and it shall also be provided with necessary office furniture, stationery and other supplies. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "Industrial Accident Board—Michigan—Seal." It shall employ such assistants and clerical help as it may deem necessary and fix the compensation of all persons so employed: Provided, That the average compensation paid to such employé shall not exceed one thousand dollars per annum for each person employed, and all such clerical assistants shall be subject to existing laws

regulating the grading and compensation of department clerks. The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board; but such expenses shall be sworn to by the person who incurred the same, and be approved by the chairman of the board before payment is made.

All such salaries and expenses when audited and allowed by the board of state auditors, shall be paid by the state treasurer out of the general fund, upon warrant of the auditor general.

Sec. 3. The board may make rules not inconsistent with this act for carrying out the provisions of the act. Process and procedure under this act shall be as summary as reasonably may be. The board or any member thereof shall have the power to administer oaths, subpoena witnesses and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

Sec. 4. The board shall cause to be printed and furnish free of charge to any employer or employé such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act; it shall provide a proper record book in which shall be entered and indexed the name of any employer who shall file a statement of election under this act, and the date of the filing thereof and its approval by such board, and a separate book in which shall be entered and indexed the name of every employer who shall file his notice of withdrawal of said election, and the date of the filing thereof; and books in which shall be recorded all orders and awards made by the board; and such other books or records as it shall deem required by the proper and efficient administration of this act; all such records to be kept in the office of the board. Upon the filing of a statement of election by an employer to become subject to the provisions of this act, the board shall forthwith cause

such notice of the fact to be given by requiring said employer to post such notice as hereinbefore provided; and the board shall likewise cause notice to be given of the filing of any withdrawal of such election; but notwithstanding the failure to give, or the insufficiency of, any such notice, knowledge of all filed statements of election and notices of withdrawal of election, and of the time of the filing of the same, shall conclusively be imputed to all employés.

Sec. 5. If the employer, or the insurance company carrying such risk, or commissioner of insurance, as the case may be, and the injured employé reach an agreement in regard to compensation under this act, a memorandum of such agreement shall be filed with the industrial accident board, and, if approved by it, shall be deemed final and binding upon the parties thereto. Such agreements shall be approved by said board only when the terms conform to the provisions of this act.

Sec. 6. If the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, and the employé fail to reach an agreement in regard to compensation under this act, either party may notify the industrial accident board, who shall thereupon call for the formation of a committee of arbitration. The committee of arbitration shall consist of three members, one of whom shall be a member of the industrial accident board, and shall act as chairman. The other two members shall be named respectively by the two parties.

Sec. 7. It shall be the duty of the industrial accident board, upon notification that the parties have failed to reach an agreement, to request both parties to appoint their respective representatives on the committee of arbitration. The board shall designate one of its members to act as chairman, and, if either party does not appoint its member on this committee within seven days after notification as above provided, the board or

any member thereof shall fill the vacancy and notify the parties to that effect.

Sec. 8. The committee of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee shall be held at the locality where the injury occurred, and the decision of the committee shall be filed with the industrial accident board. Unless a claim for a review is filed by either party within seven days, the decision shall stand as the decision of the industrial accident board: Provided, That said industrial accident board may, for sufficient cause shown, grant further time in which to claim such review.

Sec. 9. The industrial accident board or any member thereof may appoint a duly qualified impartial physician to examine the injured employé and to report. The fee for this service shall be five dollars and traveling expenses, but the board may allow additional reasonable amounts in extraordinary cases.

Sec. 10. The arbitrators named by or for the parties to the dispute shall each receive five dollars a day for his services, but the industrial accident board or any member thereof may allow additional reasonable amounts in extraordinary cases. The fees of such arbitrators and other costs of such arbitration, not exceeding, however, the taxable costs allowed in suits at law in the circuit courts of this state, shall be fixed by the board and paid by the state as the other expenses of the board are paid. The fees and the payment thereof of all attorneys and physicians for services under this act shall be subject to the approval of the industrial accident board.

Sec. 11. If a claim for review is filed, as provided in part three, section eight, the industrial accident board shall promptly review the decision of the committee of arbitration and such records as may have been kept of its hearings, and shall also if desired hear

the parties, together with such additional evidence as they may wish to submit, and file its decision therein with the records of such proceedings. Such review and hearing may be held in its office at Lansing or elsewhere as the board shall deem advisable.

Sec. 12. The findings of fact made by said industrial accident board acting within its powers, shall, in the absence of fraud, be conclusive, but the Supreme Court shall have power to review questions of law involved in any final decision or determination of said industrial accident board: Provided, That application is made by the aggrieved party within thirty days after such determination by certiorari, mandamus or by any other method permissible under the rules and practice of said court or the laws of this state, and to make such further orders in respect thereto as justice may require.

Sec. 13. Either party may present a certified copy of the decision of such industrial accident board approving agreements of settlement as provided in part three, section five hereof, or of the decision of such committee of arbitration when no claim for review is made as provided in part three, section eight, or of the decision of such industrial accident board when a claim for review is filed as provided in part three, section eleven, providing for payment of compensation under this act, to the circuit court for the county in which such accident occurred, whereupon said court shall, without notice, render a judgment in accordance therewith against said employer and also against any insurance company carrying such risk under the provisions of this act; which judgment, until and unless set aside shall have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed.

Sec. 14. Any weekly payment under this act may be reviewed by the industrial accident board at the request of the employer or the insurance company carry-

ing such risks, or the commissioner of insurance as the case may be, or the employé; and on such review it may be ended, diminished or increased, subject to the maximum and minimum amounts above provided, if the board finds that the facts warrant such action.

Sec. 15. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employé may, at his option, proceed either at law against that person to recover damages, or against the employer for compensation under this act, but not against both, and if compensation be paid under this act the employer may enforce for his benefit or for that of the insurance company carrying such risk, or the commissioner of insurance, as the case may be, the liability of such other person.

Sec. 16. All questions arising under this act, if not settled by agreement by the parties interested therein, shall, except as otherwise herein provided. be determined by the industrial accident board.

Sec. 17. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employés in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing to the industrial accident board on blanks to be procured from the board for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of his establishment or place of work, the name, age, sex and occupation of the injured employé, and shall state the time, the nature and cause of the injury, and such other information as may be required by the board. Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offense.

PART IV—METHOD OF PAYMENT.

Sec. 1. Every employer filing his election to become subject to the provisions of this act, as hereinbefore set forth, shall have the right to specify at the time of doing so, subject to the approval of said industrial accident board, which of the following methods for the payment of such compensation he desires to adopt, to-wit:

First. Upon furnishing satisfactory proof to said board of his solvency and financial ability to pay the compensation and benefits hereinbefore provided for, to make such payments directly to his employés, as they may become entitled to receive the same under the terms and conditions of this act; or

Second. To insure against such liability in any employers' liability company authorized to take such risks in the state of Michigan; or

Third. To insure against such liability in any employers' insurance association organized under the laws of the state of Michigan; or

Fourth. To request the commissioner of insurance of the state of Michigan to assume the administration of the disbursement of such compensation exclusive of that provided for in part two, section four herein, and the collection of the premiums and assessments necessary to pay the same, as provided in part five hereof. Said board, however, shall have the right, from time to time to review and alter its decision in approving the election of such employer to adopt any one of the foregoing methods of payment, if in its judgment such action is necessary or desirable to secure and safeguard such payments to employés.

Sec. 2. Nothing herein shall affect any existing contract for employers' liability insurance or affect the organization of any mutual or other insurance company, or any arrangement now existing between employers and employés, providing for the payment to such em-

ployés, their families, dependents or representatives, sick, accident or death benefits, in addition to the compensation provided for by this act. But liability for compensation under this act shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer; and in addition thereto, the right to enforce in his own name in the manner provided in this act the liability of any insurance company or of any employers' association organized under the laws of the state of Michigan, or the commissioner of insurance, who may, in whole or in part, have insured the liability for such compensation: Provided, however, That payment in whole or in part of such compensation by either the employer or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, shall, to the extent thereof be a bar to recovery against the other, of the amount so paid.

Sec. 3. Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and provisions thereof inconsistent with this act shall be void. No company shall enter into any such contract for insurance, unless such company shall have been approved by the commissioner of insurance as provided by law.

Sec. 4. Any employer against whom liability may exist for compensation under this act may, with the approval of the industrial accident board, be relieved therefrom by:

1. Depositing the present value of the total unpaid compensation for which such liability exists, assuming interest at three per centum per annum, with such trust company of this state as shall be designated by the em-

ployé, or by his dependents, in case of his death, and such liability exists in their favor, or in default of such designation by him, or them, after ten days' notice in writing from the employer, with such trust company of this state as shall be designated by the industrial accident board; or

2. By the purchase of an annuity, within the limitation provided by law, in any insurance company granting annuities and licensed in this state, which may be designated by the employé, or his dependents, or the industrial accident board, as provided in subsection one of this section.

PART V—ADMINISTRATION BY COMMISSIONER OF INSURANCE.

Sec. 1. Whenever five or more employers, who have become subject to the provisions of this act, and who have on their pay rolls an aggregate number of not less than three thousand employés, shall in writing request the commissioner of insurance so to do, he shall assume charge of levying and collecting from them such premium and dividends as may from time to time be necessary to pay the sums which shall become due their employés, or dependents of their employés, as compensation under the provisions of this act, and also the expense of conducting the administration of such funds; and shall disburse the same to the persons entitled to receive such compensation under the provisions of this act: Provided, however, That neither the commissioner of insurance nor the state of Michigan shall become or be liable or responsible for the payment of claims for compensation under the provisions of this act beyond the extent of the funds so collected and received by him as hereinafter provided.

Sec. 2. The commissioner of insurance shall immediately upon assuming the administration of the collection and disbursement of the moneys referred to in the preceding section, cause to be created in the state

treasury a fund to be known as "accident fund." Each such employer shall contribute to this fund to the extent of such premiums or assessments as the commissioner shall deem necessary to pay the compensation accruing under this act to employés of such employers or to their dependents, which premiums and assessments shall be levied in the manner and proportion hereinafter set forth. The commissioner of insurance shall give a good and sufficient bond in the sum of twenty-five thousand dollars, executed by some surety company authorized to do business in the state of Michigan, covering the collection and disbursement of all moneys that may come into his hands under the provisions of this act. The premium on said bond shall be paid out of the general funds of the state on an order of the auditor general. Said bond must be approved by the board of state auditors.

Sec. 3. It is the intention that the amounts raised for such fund shall ultimately become neither more nor less than self-supporting, and the premiums or assessments levied for such purpose shall be subject to readjustment from time to time by the commissioner of insurance as may become necessary.

Sec. 4. The commissioner of insurance may classify the establishments or works of such employers in groups in accordance with the nature of the business in which they are engaged and the probable risk or injury to their employés under existing conditions. He shall determine the amount of the premiums or assessments which such employers shall pay to said accident fund, and may prescribe when and in what manner such premiums and assessments shall be paid, and may change the amount thereof both in respect to any or all of such employers from time to time, as circumstances may require, and the condition of their respective plants, establishments or places of work in respect to the safety of their employés may justify, but all such premiums

or assessments shall be levied on a basis that shall be fair, equitable and just as among such employers. At the beginning of each fiscal year it shall be the duty of the commissioner of insurance to call for the required payment of premiums in such amounts as shall, together with any balance in the accident fund, in his judgment, and subject to the approval of said industrial accident board, be sufficient to enable him to pay all sums which may become due and payable to the employés of any such employer who has become subject to the provisions of part five of this act, and also the expenses of administering such funds during the following year.

Sec. 5. If any employer shall make default in the payment of any contribution, premium or assessment required as aforesaid by the commissioner of insurance, the sum due shall be collected by an action at law in the name of the state as plaintiff, and such right of action shall be in addition to any other right of action or remedy. In case any injury happens to any of the workmen of such employer during the period of any default in the payment of any such premium, assessment or contribution, the defaulting employer shall not, if such default be after demand for payment, be entitled to the benefits of this act, but shall be liable to suit by the injured workman, or by his dependents in case death results from such accident, as if he had not elected to become subject to this act. In case, however, the amount actually collected in by such injured workman or his dependents shall equal or exceed the compensation to which the plaintiff therein would be entitled under this act, the plaintiff shall not be paid anything out of said accident fund. If the said amount shall be less than such compensation under this act, the accident fund shall contribute the amount of the deficiency. The person so entitled under the provisions of this section shall have the choice, to be exercised before suit, of proceeding by suit or taking under this act. If

such person shall take under this act, the cause of action against the employer shall be assigned to the state for the benefit of the accident fund.

Sec. 6. Any employer subject to the provisions of part five of this act, who has complied with all the rules, regulations and demands of the industrial accident board and the commissioner of insurance, may withdraw therefrom at the expiration of the period of one year for which he has elected to become subject to the provisions of this act: Provided, however, That he shall give written notice of such withdrawal to said commissioner of insurance at least thirty days before the expiration of such period: And Provided further, That if at the time of such withdrawal liability may exist against employer for compensation to employés who have been theretofore killed or injured, as hereinbefore provided, such employer shall either relieve himself and the commissioner of insurance from such liability in the manner provided in part four, section four of this act, or shall otherwise protect and indemnify said commissioner of insurance against such liability in such reasonable manner as he may require.

Sec. 7. In case any controversy shall arise between the commissioner of insurance and any employer subject to the provisions of part five of this act, relative to any rule or regulation adopted by said commissioner of insurance, or any decision made by him in respect to the collection, administration and disbursement of such funds, or in case any controversy shall arise between any employé claiming compensation under the provisions of this act and said commissioner of insurance, all such controversies of every kind and nature shall be subject to review in like manner and with the same force and effect in all respects as is heretofore provided in respect to differences arising through the administration of such funds by the employer, or by a liability in-

surance company or by an employers' mutual insurance association.

Sec. 8. The books, records and pay rolls of each employer subject to the provisions of part five of this act shall always be open to inspection by the commissioner of insurance, or his duly authorized agent or representative, for the purpose of ascertaining the correctness of the amount of the pay roll reported, the number of men employed, and such other information as said commissioner may require in the administration of said funds. Refusal on the part of any such employer to submit said books, records and pay rolls for such inspection, shall subject the offending employer to a penalty of fifty dollars for each offense, to be collected by civil action in the name of the state and paid into the accident fund, and the individual who shall personally give such refusal shall be guilty of a misdemeanor.

Sec. 9. The commissioner of insurance shall issue proper receipts for all moneys so collected and received from employers, as aforesaid, shall take receipts for all sums paid to employés for compensation under the provisions of this act, and shall keep full and complete records of all business transacted by him in the administration of such funds. He may employ such deputies and assistants and clerical help as may be necessary, and as the board of state auditors may authorize, for the proper administration of said funds and the performance of the duties imposed upon him by the provisions of this act, at such compensation as may be fixed by said board of state auditors, and may also remove them. The commissioner of insurance and such deputies and assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but all such salaries and expenses so authorized by the provisions of this act shall be charged to and paid out of said accident fund. He shall include in his annual report a full and correct

statement of the administration of such fund, showing its financial status and outstanding obligations, the claims and the amount paid on each claim, claims not paid, claims contested and why, and general statistics in respect to all business transacted by him under the provisions of this act.

Sec. 10. Disbursements from said accident fund shall be made only upon warrants approved by the board of state auditors upon vouchers therefor transmitted to it by the commissioner of insurance. If at any time there shall not be sufficient money in said fund wherewith to pay the same, the employer on account of whose workmen it was that such warrant was drawn shall pay the same, and he shall be credited upon his next following contribution to such fund the amount so paid, with interest thereon at the legal rate, from the date of such payment to the date such next following contribution becomes payable, and if the amount of the credit shall exceed the amount of the contribution, he shall be repaid such excess.

Sec. 11. If this act shall be thereafter repealed, all moneys which are in the accident fund at the time of such repeal shall be subject to disposition under the direction of the circuit court for the county of Ingham, with due regard, however, to the obligation incurred and existing to pay compensation under the provisions of this act.

PART VI—MISCELLANEOUS PROVISIONS.

Sec. 1. If the employé, or his dependents, in case of his death, of any employer subject to the provisions of this act files any claim with, or accepts any payment from such employer, or any insurance company carrying such risks, or from the commissioner of insurance on account of personal injury, or makes any agreement, or submits any question to arbitration under this act, such action shall constitute a release to such

employer of all claims or demands at law, if any, arising from such injury.

Sec. 2. If the provisions of this act relating to compensation for injuries to or death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of an injury or death and such repeal, or the final adjudication of invalidity, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death, but the amount of any compensation which may have been paid for any such injury shall be deducted from any judgment for damages recovered on account of such injury.

Sec. 3. This act shall not affect any cause of action existing or pending before it went into effect.

Sec. 4. The provisions of this act shall apply to employers and workmen engaged in intrastate commerce, and also to those engaged in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his workmen working only in this state, may, subject to the approval of the industrial accident board, and so far as not forbidden by any act of congress, voluntarily accept and become bound by the provisions of this act in like manner and with the same force and effect in all respects as is hereinbefore provided for other employers and their workmen.

Sec. 5. All acts or parts of acts inconsistent with this act are to be deemed replaced by this act, and to that end are hereby repealed.

Sec. 6. The legislature intends that part five of this act shall be deemed separate from the other parts thereof, so that if said part five should fail or be ad-

judged invalid or unconstitutional it shall in no way affect any other part of this act.

Sec. 7. To carry out the provisions of this act there is hereby appropriated for the expenses of the industrial accident board for the fiscal year ending June thirtieth, nineteen hundred thirteen, and annually thereafter, the sum of twenty-five thousand dollars. The auditor general shall add to and incorporate into the state tax the sum of twenty-five thousand dollars annually, which said sum shall be included in the state taxes apportioned by the auditor general on all taxable property of the state, to be levied, assessed and collected as other state taxes, and when so assessed and collected to be paid into the general fund to reimburse said fund for the appropriation made by this act.

§ 356. Letter of instructions to employers.—The Michigan Industrial Accident Board, pursuant to the duties imposed upon it by the Michigan statute, has formulated a letter of instructions, and sends them to all employers of labor covered by the statute, regarding reports which they are required to make regarding injuries fatal or otherwise which have been received by their employés in the course of their employment. This letter is as follows:

"To Employers of Labor:

"The law requires that every employer shall keep a record of all injuries fatal and otherwise, received by his employés in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury, a report thereof shall be made in writing to the Industrial Accident Board at Lansing.

"Your attention is called to the fact that the law provides a fine when such reports are not made in the manner specified.

"For such purpose these blanks are furnished, a copy of which may be sent to the board and one re-

tained by employers. Use a blank for each injury and when more are needed notify the board.

"This blank is to be filled out in accordance to the facts at the time of reporting. In case the accident results subsequently in death, the fact should be immediately reported on your supplemental blank.

"The board desires to receive suggestions calculated to guard against a repetition of accidents under your observation, especially improvements in the guarding of machinery, etc., and it will at all times be ready to cooperate in everything that tends toward a lessening of accidents in the industrial field of Michigan.

"Industrial Accident Board."

§ 357. Form of employers' notice to employés that he accepts provisions of act.

NOTICE TO EMPLOYES.

All workmen or operatives employed in or about this establishment are hereby notified that the employer or employers owning or operating the same have filed with the Industrial Accident Board, at Lansing, notice of election to become subject to the provisions of Act No. 10 of Public Acts, Extra Sessions of 1912.

(This act is commonly known as the Workmen's Compensation Law.)

You are further notified that unless you serve written notice on your employer of your election not to come under the law, the act will immediately apply to you.

If you do notify your employer that you elect not to come under said act, you may afterwards waive such claim by a notice in writing, which shall take effect five days after it is delivered to the employer, at the expiration of which period the law will apply to you.

INJURY NOT RESULTING IN DEATH—NOTICE OF.

An employe who has been injured in the course of his employment and whose incapacity extends over a period of two weeks (Sec. 3, part 2) shall serve written notice of such injury on his employer (from whom blank forms may be obtained), which notice shall be signed by the person injured and shall state in ordinary language the time, place and cause of the injury (Sec. 16, part 2).

INJURY RESULTING IN DEATH—NOTICE OF.

When death results from an injury received by an employé in

the course of his employment, notice shall be served by his dependents, or by a person in their behalf (Sec. 16, part 2).

LIMIT OF PERIOD OF NOTIFICATION.

Notice of the injury shall be given to the employer within three months after the happening thereof, and claim for compensation shall be made within six months, or in case of death or in the event of physical or mental incapacity, notice shall be given within six months after the death or removal of such mental or physical incapacity. No proceeding for compensation under this act shall be maintained unless these rules are observed. (Sec. 15, part 2).

Date.....

.....Employer

§ 358. **Formal procedure—List of forms.**—The Industrial Accident Board, in complying with the duties imposed upon it by the Michigan Act, has, as a part of the scheme of administration devised by it, prescribed seven forms which are required to be used by the employers, employés and injured workmen covered by the act, together with certain instructions which are designated:

(a) Employer's written acceptance of provisions of act filed with Industrial Accident Board (filed by employer);

(b) Employer's notice of withdrawal from operation of act (filed by employer with Industrial Accident Board);

(c) Notice of employé upon entering employment that he will not be subject to act (by employé);

(d) Notice by employé that he elects to be subject to provisions of act (by employé);

(e) Notice to employer of claim for injury (by employé);

(f) Form of first report of accident (by employer);

(g) Form of supplemental report of accident (by employer).

§ 359. Form of employer's written acceptance. (a)[1]

Industrial Accident Board,
Lansing, Mich.

Take notice that the undersigned employer of labor in Michigan accepts the provisions of Act No. 10 of Public Acts, Extra Session, 1912.

Number of employes.....
Location of place of employment.....
Nature of employment.....
Method of providing for compensation adopted by the undersigned .....
(State whether Mutual Insurance, Insurance Company,
.....
[give name], State Insurance Commissioner or carry own risk.)

Dated at....., this.....day of.....19..
.....
.....
By .....
.....
(P. O. Address.)

§ 360. Form of employers' notice of withdrawal from operation of act. (b)

Industrial Accident Board,
Lansing, Mich.

Take notice that the undersigned employer of labor in Michigan hereby withdraws his (her) (its) election to become subject to the provisions of the Workmen's Compensation Law.[2]

Dated at....., this.....day of.....19..
By .....
.....
(P. O. Address.)

§ 361. Form of notice of employé upon entering employment that he elects not to be subject to act. (c)

To.....
(Write name of employer plainly on above line.)
.....
(Write address of employer plainly on above line.)

You will take notice that being about to enter your employ, I

[1] If employer wishes to accept the provisions of the above law, this notice must be signed by the employer and filed with the Industrial Accident Board. When so filed it becomes immediately binding on the employer. If employer is a corporation, the notice should have the corporate name and seal affixed and be signed by an officer having authority to do so.

[2] This notice to be effective, must be filed in the office of the

elect not to be subject to the provisions of Act No. 10 of Public Acts, Extra Session 1912.[3]

(Employe) .....

(Address) .....

Dated at....., this.....day of.....19..

§ 362. Form of notice by employé that he elects to be subject to provisions of act. (d)

To.....

(Write name of employer plainly on above line.)

.....

(Write address of employer plainly on above line.)

Take notice that as your employé, I hereby elect to become subject to the provisions of Act No. 10 of Public Acts Extra Sessions 1912.[4]

Dated at....., this.....day of.....19..

(Employe) .....

(Address) .....

§ 363. Form of notice to employer of claim for injury. (e)

To.....

(Write name of employer plainly on above line.)

.....

(Write address of employer plainly on above line.)

You will take notice that according to the provisions of Act No. 10 of Public Acts, Extra Sessions 1912.....

.....hereby makes claim for compensation for injury received by .....

while in your employ.[5]

Board at least thirty days prior to the expiration of any succeeding year.

[3] If employer has elected to become subject to provisions of the act, then upon entering the service the employé comes under the act likewise, unless he gives the employer the above notice at the time he enters such service.

[4] Unless the employé gives notice to the contrary, and without giving above notice, he will become subject to the law by remaining in such employ after the filing of such acceptance by employer.

[5] This notice should be filled out by injured employé or some one in his behalf. In case of death of employé notice is to be filled out by dependent. Notice should be served within thirty days of accident on employer by delivering a copy of the above notice to employer personally or by registered mail.

Fill out in duplicate, hand or mail one copy to employer, mail the other copy to the industrial accident board, Lansing, Michigan.

Name of employé.....
Postoffice address .....
The accident occurred.....day of.....191..
at ....., Michigan.
The nature of the injury is as follows:
.....
.....
Signature .....
Address .....
Dated at....., this.....day of.....19..

§ 364. Form of first report of accident by employer. (f)

.....
(Name of firm.)
.....
(Business.)
.....
(P. O. Address.)
Reports that the person named opposite was injured on the premises No. .....Street,
.....
(City or Village.)
on the.....day of.....19...
Nature and extent of injury.....
.....
.....
Cause and manner of the accident: State fully how the accident occurred (indefinite or incomplete reports will be returned for correction).
.....
.....
Has any other accident ever occurred to any of the employés under similar circumstances at the same place or with the same apparatus? .....
.....
Was part of machine causing the injury properly guarded at time of accident? .....
.....
If so, how .....
.....
.....
Was the person injured regularly employed on such machine or on the particular work at which injured.....
If so, how long .....
How long had injured person been working on day of accident?...
.....

Can you suggest a practical method against a repetition of this accident? .....

.....

.....

Date of reporting .....

.....

(Name of person injured.)

.....

(Street residence.)

.....

(City or Village.)

.....

(Occupation.)

Sex..... Age..... Married.....

No. of children..... No. of dependents.....

Nationality .....

Did injured person understand English.....

Did injured elect not to come under law.....

Was amputation necessary, if so state.....

Was incapacity permanent and total (as per Sec. 9, Part 2).....

Did the injury result in death.....

Did the injury require medical aid.....

Did you supply all the medical aid required.....

.....

State the cost of medical aid rendered by you.....

How much time did the employé lose due to the injury.....

State the amount of weekly wages.....

Has or will this employé, or dependents, receive compensation weekly .....

If so, how much per week.....

In case of death, with no dependents, state cost of last sickness and burial .....

Name and address of physician attending injured.....

.....

Name of hospital .....

If no compensation was or is to be paid to the injured, state ground for not so doing.....

If case is not yet closed, make a report giving the final figures, at termination of disability, or if death results later.

.....

(Signature of firm reporting.)

Name of person making out report.....

Position .....

In case injury caused death, give name, address, age and relationship of each person dependent on injured person's earnings.

(Name)	(Age)	(Relationship)	(Address)
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

§ 365. Form of supplementary report of accident by employer. (g)

Date ..... 19..
Name of employer.....
Name of injured person.....
Did injury result in death.....
Give's physician's statement of cause of death.....
.....
Has it caused any permanent physical injury.....
If so, state its nature exactly (see instructions below).....
.....
Has injured person returned to work.....
If so, on what date.....
At what occupation.....
At what wages per day.....
If injured has not yet returned to work, state probable length of disability on account of accident.....
Did you supply all medical aid required during first three weeks..
....
State total medical and hospital cost of the accident.....
State amount of compensation paid to date.....
How many weeks .....
From..... To.....
File with the Board copies of all agreements with employés.
State method of providing for compensation for injured.....
.....
Information furnished by.....
Position .....
If injury resulted in permanent total disability or death, give number of dependents. What dependents will receive compensation? (Sec. 7, part 2.)
....

(Name)	(Age)	(Relationship)	(Address)
.....	.....	.....	.....
.....	.....	.....	.....

INSTRUCTIONS.

By permanent injury is meant any of the following: (a) loss of any member or any part of a member; (b) the crippling or maiming of a member, other than by loss of a part, such as permanent

stiffening of cords, joints or muscles; (c) any permanent internal injury or weakness, such, for example, as rupture, loss of hearing, etc.

In case of any permanent injury to arms or hands, indicate whether right or left arm or hand.

In case of loss of any part, state exact extent; as, for example, tip of index finger on right hand, two fingers to second joint on left hand, right arm to elbow, loss of sight in one eye, etc.

Mail to the commission on this form, properly filled out, a report at the end of each fourth week during disability.

Mail to the commission a final report when disability ceases.

CHAPTER XXI.

THE RHODE ISLAND WORKMEN'S COMPENSATION ACT.

Sec.
366. Nature and scope of act.
367. Text of the Rhode Island Compensation Act.
368. Administration and procedure.
369. Formal procedure under act.
370. Form of notice by employer of acceptance of provisions of act. (a)
371. Form of notice by employé of claim of right of action at common law. (b)
372. Form of notice by parent or guardian of employé of claim at common law. (c)
373. Procedure in the superior court under act.
374. Form of agreement of final adjustment. (d)
374a. Form of agreement where payments continue. (e)
374b. Form of petition by any person entitled to file under act. (f)

§ 366. Nature and scope of act.—The three so-called common-law defenses are abolished in all cases where the employer does not accept the provisions of the act, except in the case of employés engaging in domestic service or agriculture and in employments where five or less workmen or operatives are regularly employed. Employers of five or less workmen may accept the provisions of the law.

The act makes the employer directly liable to pay the compensations provided. All injuries growing out of the employments covered by the law are compensated, unless they are self-inflicted or are due to intoxication. All employés who are engaged in employments covered by the act are entitled to the compensations provided in the law, except those who are engaged in casual employments, and employés whose remuneration exceeds $1,800.00 per annum.

In the event of death of employé with surviving de-

pendents the compensation is 50 per cent. of the weekly wages for 300 weeks, with $4 minimum and $10 maximum weekly payments. If there be no dependents then there is an allowance of the reasonable expenses of last sickness and burial not to exceed $200. In case of disability compensation begins after two weeks. Where the disability is total 50 per cent. of weekly wage loss, not more than $10 for not more than 500 weeks is paid. In case of partial disability, 50 per cent. of wage loss, with a minimum of $4 and a maximum of $10 per week for not more than 300 weeks is paid. In both cases specified injuries are paid fixed rates.

An employé may elect not to be bound by the act by serving on his employer a written notice of renunciation.

§ 367. Text of the Rhode Island Workmen's Compensation Act.—The Rhode Island act is entitled an act relative to payments to employés for personal injuries received in the course of their employment, and to the prevention of such injuries. It became operative October 1, 1912, and reads as follows:

ARTICLE I—ABROGATION OF REMEDIES AND DEFENSES.

Sec. 1. In an action to recover damages for personal injury sustained by accident by an employé arising out of and in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense: (a) That the employé was negligent; (b) That the injury was caused by the negligence of a fellow employé; (c) That the employé has assumed the risk of the injury.

Sec. 2. The provisions of this act shall not apply to actions to recover damages for personal injuries, or for death resulting from personal injuries, sustained by employés engaged in domestic service or agriculture.

Sec. 3. The provisions of this act shall not apply to employers who employ five or less workmen or op-

eratives regularly in the same business, but such employers may by complying with the provisions of Section 5 of this article become subject to the provisions of this act.

Sec. 4. The provisions of Section 1 of this article shall not apply to actions to recover damages for personal injuries, or for death resulting from personal injuries, sustained by employés of an employer who has elected to become subject to the provisions of this act, as provided in Section 5 of this article.

Sec. 5. Such election on the part of the employer shall be made by filing with the commissioner of industrial statistics a written statement to the effect that he accepts the provisions of this act, and by giving reasonable notice of such election to his workmen, by posting and keeping continuously posted copies of such statement in conspicuous places about the place where his workmen are employed, the filing of which statement and the giving of which notice shall operate to subject such employer to the provisions of this act and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year, each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file with said commissioner a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this act and shall give reasonable notice to his workmen as above provided. Blank forms of election and withdrawal as herein provided, shall be furnished by said commissioner.

Sec. 6. An employé of an employer who shall have elected to become subject to the provisions of this act as provided in Section 5 of this article shall be held to have waived his right of action at common law to recover damages for personal injuries, if he shall not have given his employer at the time of his contract of hire

notice in writing that he claimed such right, and within ten days thereafter have filed a copy thereof with the commissioner of industrial statistics, or, if the contract of hire was made before the employer so elected, if the employé shall not have given the said notice and filed the same with said commissioner within ten days after notice by the employer, as above provided, of such election, and such waiver shall continue in force for the term of one year, and thereafter without further act on his part, for successive terms of one year, each, unless such employé shall at least sixty days prior to the expiration of such first or any succeeding year, file with the said commissioner a notice in writing to the effect that he desires to claim his said right of action at common law and within ten days thereafter shall give notice thereof to his employer. A minor working at an age legally permitted under the laws of this state shall be deemed sui juris for the purpose of this act and no other person shall have any cause of action or right to compensation for an injury to such minor employé except as expressly provided in this act; but if said minor shall have a parent living or a guardian, such parent or guardian, as the case may be, may give the notice and file a copy of the same as herein provided by this section, and such notice shall bind the minor in the same manner that adult employés are bound under the provisions of this act. In case no such notice is given, such minor shall be held to have waived his right of action at common law to recover damages for personal injuries. Any employé, or the parent or guardian of any minor employé who has given notice to the employer that he claimed his right of action at common law may waive such claim by a notice in writing which shall take effect five days after the delivery to the employer or his agent.

Sec. 7. The right to compensation for an injury, and the remedy therefor granted by this act, shall be in lieu of all rights and remedies as to such injury now

existing, either at common law or otherwise; and such rights and remedies shall not accrue to employés entitled to compensation under this act while it is in effect.

ARTICLE II—PAYMENTS.

Sec. 1. If an employé who has not given notice of his claim of common-law rights of action or who has given such notice and has waived the same, as provided in Section 6 of Article I, receives a personal injury by accident arising out of and in the course of his employment, he shall be paid compensation, as hereinafter provided, by the employer who shall have elected to become subject to the provisions of this act.

Sec. 2. No compensation shall be allowed for the injury or death of an employé where it is proved that his injury or death was occasioned by his wilful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty.

Sec. 3. Contingent fees of attorneys for services under this act shall be subject to the approval of the superior court.

Sec. 4. No compensation except as provided by Section 12 of this Article shall be paid under this act for any injury which does not incapacitate the employé for a period of at least two weeks from earning full wages, but, if such incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury.

Sec. 5. During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services, and medicines when they are needed, the amount of the charge for such services to be fixed, in case of the failure of the employer and employé to agree, by the superior court.

Sec. 6. If death results from the injury, the employer shall pay the dependents of the employé wholly

dependent upon his earnings for support at the time of his injury a weekly payment equal to one-half his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury; Provided, however, that, if the dependent of the employé to whom the compensation shall be payable upon his death is the widow of such employé, upon her death the compensation thereafter payable under this act shall be paid to the child or children of the deceased employé, including adopted and step-children, under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, dependent upon the widow at the time of her death. In case there is more than one child thus dependent, the compensation shall be divided equally among them. If the employé leaves dependents only partly dependent upon his earnings for support at the time of his injury, the employer shall pay such dependents for a period of three hundred weeks from the date of the injury a weekly compensation equal to the same proportion of the weekly payments herein provided for the benefit of persons wholly dependent as the amount contributed annually by the employé to such partial dependents bears to the annual earnings of the deceased at the time of injury. When weekly payments have been made to an injured employé before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury: Provided, however, that, if the deceased leaves no dependents at the time of the injury, the employer shall not be liable to pay compensation under this act except as specifically provided in Section 9 of this article.

Sec. 7. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employé:

(a) A wife upon a husband with whom she lives or upon whom she is dependent at the time of his death.

(b) A husband upon a wife with whom he lives or upon whom he is dependent at the time of her death.

(c) A child or children, including adopted and step-children, under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, upon the parent with whom he is or they are living or upon whom he or they are dependent at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the compensation hereunder shall be divided equally among them.

In all other cases questions of entire or partial dependency shall be determined in accordance with the fact as the fact may have been at the time of the injury. In such other cases, if there is more than one person wholly dependent, the compensation shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof during the period in which compensation is paid to persons wholly dependent. If there is no one wholly dependent and more than one person partly dependent, the compensation shall be divided among them according to the relative extent of their dependency.

Sec. 8. No person shall be considered a dependent unless he is a member of the employé's family or next of kin, wholly or partly dependent upon the wages, earnings or salary of the employé for support at the time of the injury.

Sec. 9. If the employé dies as a result of the injury leaving no dependents at the time of the injury, the employer shall pay, in addition to any compensation provided for in this act, the reasonable expense of his last sickness and burial, which shall not exceed two hundred dollars.

Sec. 10. While the incapacity for work resulting

from the injury is total, the employer shall pay the injured employé a weekly compensation equal to one-half his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks from the date of the injury. In the following cases it shall, for the purpose of this section, be conclusively presumed that the injury resulted in permanent total disability, to-wit: The total and irrevocable loss of sight in both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine, resulting in permanent and complete paralysis of the legs or arms, and an injury to the skull, resulting in incurable imbecility or insanity.

Sec. 11. While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employé a weekly compensation equal to one-half the difference between his average weekly wages, earnings, or salary, before the injury and the average weekly wages, earnings or salary which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury.

Sec. 12. In case of the following specified injuries the amounts named in this section shall be paid in addition to all other compensation provided for in this act:

(a) For the loss by severance of both hands at or above the wrist, or both feet at or above the ankle, or the loss of one hand and one foot, or the entire and irrecoverable loss of the sight of both eyes, one-half of the average weekly wages, earnings, or salary, of the injured person, but not more than ten dollars nor less than four dollars a week, for a perior of one hundred weeks.

(b) For the loss by severance of either hand at or above the wrist, or either foot at or above the ankle, or the entire and irrecoverable loss of the sight of either eye, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of fifty weeks.

(c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, or toes, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twenty-five weeks.

(d) For the loss by severance of at least one phalange of a finger, thumb, or toe, one-half the average weekly wages, earnings, or salary of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twelve weeks.

Sec. 13. The "average weekly wages, earnings, or salary" of an injured employé shall be computed as follows:

(a) If the injured employé has worked in the same employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his "average weekly wages" shall be three hundred times the average daily wages, earnings, or salary, which he has earned in such employment during the days when so employed and working the number of hours constituting a full working day in such employment, divided by fifty-two. But where the employé is employed concurrently by two or more employers, for one of whom he works at one time and for another of whom he works at another time, his "average weekly wages" shall be computed as if the wages, earnings, or salary received by him from all such employers were wages, earnings, or salary earned in the employment

of the employer for whom he was working at the time of the accident.

(b) If the injured employé has not so worked in such employment during substantially the whole of such immediately preceding year, his "average weekly wages" shall be three hundred times the average daily wages, earnings, or salary which an employé of the same class working substantially the whole of such immediately preceding year in the same or a similar employment, in the same or a neighboring place, has earned in such employment during the days when so employed and working the number of hours constituting a full working day in such employment divided by fifty-two.

(c) In cases where the foregoing methods of arriving at the "average weekly wages, earnings or salary" of the injured employé cannot reasonably and fairly be applied, such "average weekly wages, earnings, or salary" shall be taken at such sum as, having regard to the previous wages, earnings or salary of the injured employé, and of other employés of the same or most similar class, working in the same or most similar employment in the same or a neighboring locality, shall reasonably represent the weekly earning capacity of the injured employé at the time of the accident in the employment in which he was working at such time.

(d) Where the employer has been accustomed to pay to the employé a sum to cover any special expense incurred by said employé by the nature of his employment, the sum so paid shall not be reckoned as part of the employé's wages, earnings or salary.

(e) The fact that an employé has suffered a previous injury, or received compensation therefor, shall not preclude compensation for a later injury or for death; but in determining the compensation for the later injury or death, his "average weekly wages" shall be such sum as will reasonably represent his weekly earning capacity at the time of the later injury, in the employ-

ment in which he was working at such time, and shall be arrived at according to, and subject to the limitations of, the previous provisions of this section.

Sec. 14. No savings or insurance of the injured employé, independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than the employed be considered in fixing the compensation under this act.

Sec. 15. The compensation payable under this act in case of the death of the injured employé shall be paid to his legal representatives; or, if he has no legal representative, to his dependents entitled thereto, or, if he leaves no such dependents, to the person to whom the expenses for the burial and last sickness are due. If the payment is made to the legal representative of the deceased employé, it shall be paid by him to the dependents or other persons entitled thereto under this act. All payments of compensation under this act shall cease upon the death of the employé from a cause other than or not induced by the injury for which he is receiving compensation.

Sec. 16. In case an injured employé is mentally incompetent, or, where death results from the injury, in case any of his dependents entitled to compensation hereunder are mentally incompetent or minors at the time when any right, privilege or election accrues to him or them under this act, his conservator, guardian, or next friend may, in his behalf, claim and exercise such right, privilege, or election, and no limitation of time in this act provided shall run so long as such incompetent or minor has no conservator or guardian.

Sec. 17. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the injury shall have been given to the employer within thirty days after the happening thereof; and unless the claim for compensation with respect to such in-

jury shall have been made within one year after the occurrence of the same, or, in case of the death of the employé, or in the event of his physical or mental incapacity, within one year after death or the removal of such physical or mental incapacity.

Sec. 18. Such notice shall be in writing and shall state in ordinary language the nature, time, place and cause of the injury, and the name and address of the person injured and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representative, or by a dependent, or by a person in behalf of either.

Sec. 19. Such notice shall be served upon the employer, or upon one employer, if there are more employers than one, or if the employer is a corporation, upon any officer or agent upon whom process may be served, by delivering the same to the person on whom it is to be served, or by leaving it at his last known residence or place of business, or by sending it by registered mail addressed to the person to be served, or, in the case of a corporation, to the corporation itself, at his or its last known residence or place of business; and such mailing of the notice shall constitute completed service.

Sec. 20. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the nature, time, place or cause of the injury, or the name and address of the person injured; unless it is shown that it was the intention to mislead and the employer was in fact misled thereby. Want of notice shall not be a bar to the proceedings under this act, if it be shown that the employer or his agent had knowledge of the injury, or that failure to give such notice was due to accident, mistake or unforeseen cause.

Sec. 21. The employé shall, after an injury, at reasonable times during the continuance of his disability, if so requested by his employer, submit himself to an

examination by a physician or surgeon authorized to practice medicine under the laws of the state, furnished and paid for by the employer. The employé shall have the right to have a physician, provided and paid for by himself, present at such examination.

Any justice of the superior court may, at any time after an injury, on the petition of the employer or employé, appoint a competent and impartial physician or surgeon to act as a medical examiner, and the reasonable fees of such medical examiner as fixed by the justice appointing him shall be paid by the party moving for such appointment.

Such medical examiner being first duly sworn to the faithful performance of his duties before the justice appointing him or clerk of the court shall thereupon, and as often as necessary, examine such injured employé in order to determine the nature, extent, and probable duration of the injury. Such medical examiner shall file a report of every examination made of such employé in the office of the clerk of the superior court having jurisdiction of the matter as provided in Section 16 of Article III of this act, and such report shall be produced in evidence in any hearing or proceeding to determine the amount of compensation due such employé under the provisions of this act. If such employé refuses to submit himself for any examination provided for in this act, or in any way obstructs any such examination, his rights to compensation shall be suspended and his compensation during such period of suspension may be forfeited.

Sec. 22. No agreement by an employé, except as provided in Article IV, to waive his rights to compensation under this act shall be valid.

Sec. 23. No claims for compensation under this act, or under any alternative scheme permitted by Article IV of this act, shall be assignable, or subject to attachment, or liable in any way for any debts.

Sec. 24. The claim for compensation under this act, or under any alternative scheme permitted by Article IV of this act and any decree on any such claim shall be entitled to a preference over the unsecured debts of the employer hereafter contracted to the same amount as the wages of labor are now preferred by the laws of this state; but nothing herein shall be construed as impairing any lien which the employé may have acquired.

Sec. 25. In case payments have continued for not less than six months either party may, upon due notice to the other party, petition the superior court for an order commuting the future payments to a lump sum. Such petition shall be considered by the superior court and may be summarily granted where it is shown to the satisfaction of the court that the payment of a lump sum in lieu of future weekly payments will be for the best interest of the person or persons receiving or dependent upon such compensation, or that the continuance of weekly payments will, as compared with lump-sum payments, entail undue expense or undue hardship upon the employer liable therefor, or that the person entitled to compensation has removed or is about to remove from the United States. Where the commutation is ordered the superior court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments, capitalized at their present value upon the basis of interest calculated at five per centum per annum with annual rests. Upon paying such amount the employer shall be discharged from all further liability on account of the injury or death, and be entitled to a duly executed release, upon filing which, or other due proof of payment, the liability of such employer under any agreement, award, findings, or decree shall be discharged of record.

ARTICLE III.—PROCEDURE.

Sec. 1. If the employer and the employé reach an agreement in regard to compensation under this act,

a memorandum of such agreement signed by the parties shall be filed in the office of the clerk of the superior court having jurisdiction of the matter as provided in Section 16 of this article. The clerk shall forthwith docket the same in a book kept for that purpose, and shall thereupon present said agreement to a justice of the superior court, and when approved by the justice the agreement shall be enforceable by said superior court by any suitable process, including executions against goods, chattels and real estate, and including proceedings for contempt for wilful failure or neglect to obey the provisions of said agreement. No appeal shall lie from the agreement thus approved unless upon allegation that such agreement had been procured by fraud or coercion. Such agreement shall be approved by the justice only when its terms conform to the provisions of this act.

When death has resulted from the injury and the dependents of the deceased employé entitled to compensation are, or the apportionment thereof among them is, in dispute, such agreement may relate only to the amount of compensation.

Sec. 2. If the employer and employé fail to reach an agreement in regard to compensation under this act, either employer or employé, and when death has resulted from the injury and the dependents of the deceased employé entitled to compensation are, or the apportionment thereof among them is, in dispute, any person in interest may file in the office of the clerk of the superior court having jurisdiction of the matter as provided in Section 16 of this article, a petition in the nature of a petition in equity setting forth the names and residences of the parties, the facts relating to employment at the time of the injury, the cause, extent and character of the injury, the amount of wages, earnings, or salary received at the time of the injury, and the

knowledge of the employer or notice of the occurrence of the injury, and such other facts as may be necessary and proper for the information of the court, and shall state the matter in dispute and the claims of the petitioner with reference thereto.

Sec. 3. Within four days after the filing of the petition, a copy thereof, attested by the petitioner or his attorney, shall be served upon the respondent in the same manner as a writ of summons in a civil action.

Sec. 4. Within ten days after the filing of the petition, the respondent shall file an answer to said petition, together with a copy thereof for the use of the petitioner, which shall state the claims of the respondent with reference to the matter in dispute as disclosed by the petition. No pleadings other than petition and answer shall be required to bring the cause to a hearing for final determination. The superior court may grant further time for filing the answer and allow amendments of said petition and answer at any stage of the proceedings. If the respondent does not file an answer, the cause shall proceed without formal default or decree pro confesso. If the respondent be an infant or person under disability, the superior court shall appoint a guardian ad litem for such infant or person under disability. Such guardian ad litem may be appointed on any court day after service of the copy referred to in Section 3 of this article, upon motion of any party after notice given as required for motions made in the superior court, and opportunity to said infant or person under disability to be heard in regard to the choice of such guardian ad litem. The guardian ad litem so appointed shall file the answer required by this section.

Sec. 5. The petition shall be in order for assignment for hearing on the motion day which occurs next after fifteen days from the filing of the petition. Upon the days upon which said petition shall be in order for hearing it shall take precedence of other cases upon the

calendar, except cases for tenements let or held at will or by sufferance.

Sec. 6. The justice to whom said petition shall be referred by the court shall hear such witnesses as may be presented by each party, and in a summary manner decide the merits of the controversy. His decisions shall be filed in writing with the clerk, and a decree shall be entered thereon. Such decree shall be enforceable by said superior court by any suitable process including executions against goods, chattels and real estate, and including proceedings for contempt for wilful failure or neglect to obey the provisions of said decree. Such decree shall contain findings of fact, which, in the absence of fraud, shall be conclusive. The superior court may award as costs the actual expenditures, or such part thereof as to the court shall seem meet, but not including counsel fees, and shall include such costs in its decree. The superior court may refuse to award costs, and no costs shall be awarded against an infant or person under disability or against a guardian ad litem.

Sec. 7. Any person aggrieved by the final decree of the superior court under this act may appeal to the Supreme Court upon any question of law or equity decided adversely to the appellant by said final decree or by any proceeding or ruling prior thereto appearing of record, the appellant having first had his objections noted to any adverse rulings made during the progress of the trial at the time such rulings were made, if made in open court and not otherwise of record.

The appellant shall take the following steps:

(a) Within ten days after entry of said final decree he shall file a claim of appeal and, if a transcript of the testimony and rulings or any part thereof be desired, a written request therefor.

(b) Within such time as the justice of the superior court who heard the petition, or, in case of his inability to act from any cause within such time as any other

justice thereof shall fix, whether by original fixing of the time, or by extension thereof, or by a new fixing after any expiration thereof, the appellant shall file reasons of appeal stating specifically all the questions of law or equity decided adversely to him which he desires to include in his reasons of appeal, together with a transcript of as much of the testimony and rulings as may be required. The Supreme Court may allow amendments of said reasons of appeal. Upon the filing of said reasons of appeal and transcript, the clerk of the superior court shall present the transcript to the justice who heard the cause for allowance. The justice after hearing and examination, shall restore the transcript to the files of the clerk with a certificate of his action thereon made within twenty days after filing the transcript, unless the twentieth day shall fall in vacation, in which event the certificate may be filed at any time before the first Monday in the following month of October.

If the transcript be not allowed by the justice who heard the cause within the time prescribed, or objection to his allowance be made by any party, the correctness of the transcript may be determined by the Supreme Court by petition filed within thirty days after filing the transcript, unless the thirtieth day shall fall in vacation, in which event the correctness of the transcript may be determined by petition, filed on or before the tenth day after the first Monday in the following month of October. In all other respects than in time of filing the same course shall be followed as provided in Section 21 of Chapter 298 of the General Laws for establishing the truth of exceptions.

Sec. 8. Upon the restoration of the transcript to the files, or, if there be no transcript, then upon the filing of the reasons of appeal, the clerk of the superior court shall certify the cause and all papers to the Supreme Court.

Sec. 9. The claim of an appeal shall suspend the operation of the decree appealed from, but, in case of default in taking the procedure required, such suspension shall cease, and the superior court upon motion of any party shall proceed as if no claim of appeal had been made, unless it be made to appear to the superior court that the default no longer exists.

Sec. 10. Any court day in the Supreme Court shall be a motion day for the purpose of hearing a motion to assign the appeal for hearing.

Sec. 11. The Supreme Court after hearing any appeal shall determine the same, and affirm, reverse or modify the decree appealed from, and may itself take or cause to be taken by the superior court, such further proceedings as shall seem just. If a new decree shall be necessary, it shall be framed by the Supreme Court for entry by the superior court. Thereupon the cause shall be remanded to the superior court for such further proceedings as shall be required.

Sec. 12. No process for the execution of a final decree of the superior court from which an appeal may be taken shall issue until the expiration of ten days after the entry thereof, unless all parties against whom such decree is made waive an appeal by a writing filed with the clerk or by causing an entry thereof to be made on the docket.

Sec. 13. If, in the course of the proceedings in any cause, any question of law shall arise which in the opinion of the superior court is of such doubt and importance, and so affects the merits of the controversy, that it ought to be determined by the Supreme Court before further proceedings, the superior court may certify such question to the Supreme Court for that purpose, and stay all further proceedings except such as are necessary to preserve the rights of the parties.

Sec. 14. At any time before the expiration of two years from the date of the approval of an agreement,

or the entry of a decree fixing compensation, but not afterwards, and before the expiration of the period for which compensation has been fixed by such agreement or decree, but not afterwards, any agreement, award, findings or decree may be from time to time reviewed by the superior court upon the application of either party, after due notice to the other party, upon the ground that the incapacity of the injured employé has subsequently ended, increased, or diminished. Upon such review the court may increase, diminish, or discontinue the compensation from the date of the application for review, in accordance with the facts, or make such other order as the justice of the case may require, but shall order no change of the status existing prior to the application for review. The finding of the court upon such review shall be served on the parties and filed with the clerk of the court having jurisdiction, in like time and manner and subject to like disposition as in the case of original decrees: Provided, that an agreement for compensation may be modified at any time by a subsequent agreement between the parties approved by the superior court in the same manner as original agreements in regard to compensation are required to be approved by the provisions of Section 1 of Article III of this act.

Sec. 15. The superior court shall prescribe forms and make suitable orders as to procedure adapted to secure a speedy, efficient and inexpensive disposition of all proceedings under this act; and in making such orders said court shall not be bound by the provisions of the General Laws relating to practice. In the absence of such orders, special orders shall be made in each case.

Sec. 16. Proceedings shall be brought either in the county where the accident occurred or in the county where the employer or employé lives or has a usual

place of business. The court where any proceeding is brought shall have power to grant a change of venue.

Sec. 17. No proceedings under this act shall abate because of the death of the petitioner, but may be prosecuted by his legal representative or by any person entitled to compensation by reason of said death, under the provisions of this act.

Sec. 18. An employé's claim for compensation under this act shall be barred unless an agreement or a petition, as provided in this article, shall be filed within two years after the occurrence of the injury, or, in case of the death of the employé, or, in the event of his physical or mental incapacity, within two years after the death of the employé or the removal of such physical or mental incapacity.

Sec. 19. If an employé receiving a weekly payment under this act shall cease to reside in the state, or, if his residence at the time of the accident is in an adjoining state, the superior court, upon the application of either party, may, in its discretion, having regard to the welfare of the employé and the convenience of the employer, order such payment to be made monthly or quarterly instead of weekly.

Sec. 20. All questions arising under this act, if not settled by agreement of the parties interested therein, shall, except as otherwise herein provided, be determined by the superior court.

Sec. 21. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof, the employé may take proceedings both against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to receive both damages and compensation; and if the employé has been paid compensation under this act, the person by whom the com-

pensation was paid shall be entitled to indemnity from the person so liable to pay damages as aforesaid, and, to the extent of such indemnity, shall be subrogated to the rights of the employé to recover damages therefor.

ARTICLE IV—ALTERNATIVE SCHEMES PERMITTED.

Sec. 1. Any employer may enter into an agreement with his employés in any employment to which this act applies to provide a scheme of compensation, benefit, or insurance, in lieu of the compensation provided for in this act, subject to the approval of the superior court. Such approval shall be granted only on condition that the scheme proposed provides as great benefits as those provided by this act; and, if the scheme provides for contributions by employés, it shall confer additional benefits at least equivalent to these contributions. If such a scheme meets with the approval of said court, the clerk shall issue a certificate enabling the employer to contract with any or all of his employés in employments to which this act applies to substitute such scheme for the provisions of this act for a period of not more than five years.

Sec. 2. No scheme which provides for contributing by employés shall be so certified which does not contain suitable provisions for the equitable distribution of any money or securities held for the purpose of the scheme, after due provision has been made to discharge the liabilities already incurred, if and when such certificate is revoked or the scheme otherwise terminated.

Sec. 3. If at any time the scheme no longer fulfills the requirements of this article, or is not fairly administered, or any other valid and substantial reason therefor exists, the superior court, on reasonable notice to the interested parties, shall revoke the certificate and the scheme shall thereby be terminated.

ARTICLE V—MISCELLANEOUS PROVISIONS.

Sec. 1. In this act, unless the context otherwise requires:

(a) "Employer" includes any person, copartnership, corporation or voluntary association, and the legal representative of a deceased employer.

(b) "Employé" means any person who has entered into the employment of, or works under contract of service or apprenticeship with, an employer, and whose remuneration does not exceed eighteen hundred dollars a year. It does not include a person whose employment is of a casual nature, and who is employed otherwise than for the purpose of the employer's trade or business. Any reference to an employé who has been injured shall, where the employé is dead, include a reference to his dependents as hereinbefore defined, or to his legal representative, or, where he is a minor, or incompetent, to his conservator or guardian.

Sec. 2. Nothing in this act shall affect the liability of the employer to a fine or penalty under any other statute.

Sec. 3. The provisions of this act shall not apply to injuries sustained, or accidents which occur, prior to the taking effect hereof.

Sec. 4. If any section of this act shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall in no way affect the validity of any other portion thereof which can be given reasonable effect without the part so declared unconstitutional or invalid.

Sec. 5. In all cases where an employer and employé shall have elected to become subject to the provisions of this act, the provisions of Section 14 of Chapter 283 of the General Laws, shall not apply while this act is in effect.

Sec. 6. All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 7. This act may be cited as "Workmen's Compensation Act."

§ 368. Administration and procedure.—All claims for injuries arising under this act may be adjusted by the employer and the employé in a written agreement which must be approved by a justice of the superior court. In the absence of any such agreement all such claims are determined and the procedure therefor prescribed by the justices of said court. The determination of the superior court on questions of fact is final but an appeal is allowed to the Supreme Court on questions of law.

§ 369. Formal procedure under act.—Employers and their employés and parents and guardians of infant employés who are covered by the act, are required to file with the State Commissioner of Industrial Statistics certain notices. These notices are designated and entitled as follows: (a) Notice by the employer of acceptance of the provisions of the act (by the employer); (b) Notice by employé of claim of right of action at common law, in accordance with section 6, Article I of act (by employé); (c) Notice, by parent or guardian of employé, of claim of right of action at common law in accordance with section 6, Article I of act.

§ 370. Form of notice by employer of acceptance of provision of act.(a)

.....191

To the Commissioner of Industrial Statistics,
State House, Providence, Rhode Island.

Notice is hereby given that I, we.....
accept the provisions of Chapter 831 of the Public Laws of the State of Rhode Island, entitled "An Act Relative to Payments to Employés for Personal Injuries Received in the Course of their Employment and to the Prevention of such Injuries."

Witness: Name[1].....

P. O. Address.....

[1]If employer is a firm or corporation, give name of firm or corporation and add name of duly authorized member of firm or officer or corporation.

§ 371. Form of notice by employé of claim of right of action at common law, in accordance with section 6, article I of act. (b)[2]

.....191

To .....
(Name of Employer)
.....
(Postoffice Address)

I,....., an employé of..... hereby give notice in writing that I claim my right of action at Common Law to recover damages for personal injuries sustained while in the employment of said.....

Witness: Name.....
P. O. Address.....

§ 372. Form of notice, by parent or guardian of employé, of claim of right of action at common law in accordance with section 6, article I of act. (c)[3]

.....191

To .....
(Name of Employer)
.....
(Postoffice Address)

I, ...parent, guardian of.....an employé of ..... hereby give notice in writing of claim of right of action at common law to recover damages for personal injuries sustained by said.....while in the employment of said.....

Witness: Name.....
P. O. Address.....

§ 373. Procedure in the superior court under act.—At this time the procedure provided by the Rhode Island Act, Article III under the direction of the superior court, consists of two forms of settlement-agreements and of form of petition for settlement of claim together with certain foot notes on interpretation of the act which are designated and entitled as follows:

[2]This form should be executed in duplicate and one copy given to the Employer, the other sent to the Commissioner of Industrial Statistics, State House, Providence.

[3]This form should be executed in duplicate and one copy given to the Employer, the other sent to the Commissioner of Industrial Statistics, State House, Providence.

(d) form of agreement where settlement is final; (e) form of agreement where payments are to continue; (f) form of petition by any person entitled to file petition under Workmen's Compensation Act. These forms are given in the order named above in the following sections:

§ 374. Form of agreement where adjustment is final. (d)

(If payments are to continue use longer form of agreement.)
It is hereby Mutually Agreed as follows, namely:
That _____
(Name and residence of employer.)
_____
has paid to_____
(Name and residence, street and number, of employé.)
_____
the sum of_____
dollars and _____cents
as follows: _____
(Specify amount for medical and hospital services and
_____
medicines and amount for weekly payments stating number of such
_____
weekly payments.)
_____
in full settlement and discharge of all compensation due said_____
_____
(Name of Employé.)
under the Workmen's Compensation Act and all acts in amendment thereof and in addition thereto for all injuries received by said_____
_____
(Name of Employé.)
on the_____day of_____A. D. 19__, while in the employ of said _____
at _____
(Place of injury, city, street and number.)
as _____
(Nature of employment.)
That said injury was received as follows:_____
(Describe accident
_____
briefly.)
_____

That the nature and extent of said injury were:_____
(Describe injury
_____
briefly.)
_____
That the amount of the average weekly wages, earnings or salary of the said_____
(Name of employé.)
was _____ dollars
and _____ cents
That receipt of said first mentioned sum is hereby acknowledged by said _____
(Name of employé.)
and said _____
(Name of employer.)
is hereby released and discharged from all liability for said injury whether arising under said Workmen's Compensation Act or otherwise.

Witness our hands at_____
in the County of_____in said State of Rhode Island on this_____day of_____ A. D. 19__.

Witness _____
(Signature of employer.)
Witness _____
(Signature of employé.)
Approved_____A. D. 19__.

_____
Justice of Superior Court.

Note. This agreement is subject to approval and review by the superior court and must be filed in the office of the clerk of said court as provided by Section 1 of Article III of the Workmen's Compensation Act.

§ 374a. Form of agreement where payments continue. (e)

(If adjustment is final use shorter form of settlement agreement.)
(See foot notes.)

State of Rhode Island and Providence Plantations.
_____ss.

This Memorandum of Agreement entered into on this_____ day of_____A. D. 19__, at_____, in_____County of_____, in said State, by and between _____
of _____

as employer_____, and_____
of_____, in_____County of_____,
in_____State_____, as_____
(State whether
_____
employé, representative or dependent of deceased employé, etc.) in accordance with the provisions of Chapter 831 of the Public Laws passed by the General Assembly of said State of Rhode Island at the January Session, A. D. 1912, entitled "An Act Relative to Payments to Employés for Personal Injuries received in the course of their employment, and to the Prevention of such Injuries," otherwise known as the "Workmen's Compensation Act," and of all acts in amendment thereof and in addition thereto:

WITNESSETH, that,

Whereas, _____
(Name of injured employé.)
_____
did, on the_____day of_____, A. D. 19__, at_____
_____, in_____County of_____,
in_____State of_____, while in the employ of said employer as_____
(Insert nature of occupation.)
receive a personal injury by accident arising out of and in the course of h_____said employment as follows:_____
(Describe accident briefly.)
_____

It is hereby mutually agreed as follows, namely:

1. That the character and extent of the injury received by the said _____ as aforesaid were as follows:_____
_____

a. resulting in the death of said_____
_____
on the_____day of_____, A. D. 19__.

(1) said deceased leaving the following wholly dependent upon h_____ earnings for support at the time of said injury, namely:____
_____
(Insert names in full and addresses.)
_____

(2) said deceased leaving the following partly dependent upon h_____ earnings for support at the time of said injury, namely:
_____
(Insert names in full and addresses.)

(a) the amount contributed annually by said deceased employé to those partially dependent upon h____ earnings at the time of said injury as aforesaid being_____dollars, and the amount of the annual earnings of said deceased employé at the time of said injury being _____dollars.

(b) resulting in the permanent total incapacity of the said_____.

(c) resulting in the total incapacity of the said_____ as follows: _____(State duration of total incapacity so far as possible.)

(d) resulting in the partial incapacity of the said_____ as follows: _____ (State duration of partial incapacity so far as possible.)

2. That the amount of the average weekly wages, earnings or salary of the said_____at the time of receiving said injury as aforesaid was_____dollars and_____cents.

3. That one-half the difference between the average weekly wages, earnings or salary of the said_____before the said injury and the average weekly wages, earnings or salary which__he has been able to earn since said injury is the sum of_____dollars and_____cents.

4. That the amount of charge for reasonable medical and hospital services and medicines required by the said_____and by h____ furnished during the first two weeks after the injury to h____ received as aforesaid is hereby fixed at_____dollars and _____cents.

5. That the said_____employer as aforesaid shall make the following payments subject to the terms of said act as compensation under said act for said injury received by said_____ as aforesaid_____.

6. That upon compliance with the terms of the above agreement or of any modification thereof duly approved by the superior court, said employer shall be fully discharged from all liability for said injury whether arising under said act or otherwise, and shall be entitled to a duly executed release.

In witness whereof we hereunto set our hands at said_____ in said county of_____, on said_____day of_____ A. D. 19____.

Witness:

_____ _____(Signature of Employer.)_____

Witness:

_____ _____(Signature of Employé)_____

Approved_____A. D. 19____.

_____

Justice of Superior Court.

Note—The above form is designed to fit any case arising under the Workmen's Compensation Act. Only such portions as are applicable to the case in hand should be used; all others should be stricken out. For example: Subdivision (a) of paragraph 1 is applicable only in case of death of injured employé, and paragraph 3 is applicable only in case of partial incapacity.

Note—This agreement is subject to approval and review by the superior court, and must be filed in the office of the clerk of said court as provided by Section 1 of Article III of the Workmen's Compensation Act.

§ 374b. Form of petition by any person entitled to file under act. (f)

State of Rhode Island and Providence Plantations. _____ss. _____ vs. _____. Superior Court. Petition No. _____. Filed under Workmen's Compensation Act. Petition. Respectfully represent__ your petitioner_____of_____ in_____County of_____, in _____ State of _____, who is___(State whether employer, employé, representative, dependent, etc.)_____file__ this petition for relief against _____of_____in_____county of _____in_____State of_____, as _____(State whether employer, employé, etc.)_____in accordance with the provisions of Chapter 831 of the Public Laws passed by the General Assembly of said State of Rhode Island at the January Session A. D. 1912, entitled "An Act Relative to Payments to Employés for Personal Injuries Received in the Course of their Employment, and to the Prevention of such Injuries," otherwise known as the "Workmen's Compensation Act," and of all acts in amendment thereof and in addition thereto:

1. That on the_____day of_____A. D. 19____, _____ was engaged in the employ of said_____at_____in _____county of_____in_____State of_____, and has been engaged in such employment for the space of_____.

2. That said_____employé as aforesaid, was not at said time engaged in domestic service or agriculture.

3. That the facts relating to said employment at the time aforesaid were as follows:_____

4. That on said _____ day of _____ A. D. 19__, said _____while in the employ of said_____ as aforesaid, received personal injury by accident arising out of and in the course of said employment.

5. That at said time said_____employer as aforesaid, had elected to become subject to the provisions of said act and had not withdrawn such election as provided by the terms thereof.

6. That said_____at said time had waived h____ right of action at common law to recover damages for personal injuries received as aforesaid.

7. That said injury was_____occasioned by the wilful intention of said_____to bring about the injury to h____self or another and did____result from h____intoxication while on duty.

8. That the cause of said injury was_____.

9. That the character and extent of said injury were as follows, viz: _____.

a. resulting in the death of said_____on the_____ day of_____A. D. 19____.

(1) the said deceased leaving the following wholly dependent

upon h____ earnings for support at the time of said injury, namely:

---

(2) the said deceased leaving the following partly dependent upon h____ earnings for support at the time of said injury, namely:

(a) the amount contributed annually by said deceased employé to those partially dependent upon h____ earnings at the time of said injury as aforesaid being_____and the amount of the annual earnings of said deceased employé at the time of said injury being_____.

*(3) the reasonable expense of the last sickness and burial of said deceased employé incurred by_____amounting to the sum of_____.

b. resulting in the permanent total incapacity of the said_____

c. resulting in the total incapacity of the said_____as follows:_____(State duration of total incapacity so far as possible.)

d. resulting in the partial incapacity of the said_____as follows: _____(State duration of partial incapacity so far as possible.)

10. That at the time of said injury as aforesaid said _____ was receiving wages, earnings or salary as follows:_____.

11. That the amount of the average weekly wages, earnings or salary of the said_____at the time of receiving said injury as aforesaid was_____dollars and_____cents.

That one-half the difference between the average weekly wages, earnings or salary of the said_____before the injury aforesaid and the average weekly wages, earnings or salary which___he has been able to earn since said injury is the sum of_____dollars and_____cents.

12. That the amount of the charge for reasonable medical and hospital services and medicines required by the said_____and by h___ furnished during the first two weeks after said injury is_____ dollars and_____cents.

13. That notice of said injury was____ given to said employer and claim for compensation with respect to said injury was_____ made in accordance with the provisions of said act.

That failure to give such notice was due to accident, mistake or unforeseen cause_____.

That_____said_____(Name of employer)_____employer as aforesaid_____agent,_____, had_____ knowledge of said injury.

14. That the parties hereto have failed to reach an agreement in regard to compensation for said injury under said act.

15. That the matter in dispute between the said parties is as follows: _____.

16. That your petitioner____claim____with reference thereto as follows: _____.

17. That your petitioner____ha____in all respects complied with the terms of said act and_____entitled to relief thereunder.

Wherefore, your petitioner____pray____this Honorable Court to hear the parties aforesaid and to decide the merits of the said controversy and to make such order and decree therein as shall do justice in the premises between the said parties.

And your petitioner____will ever pray.[4]

Attorney____for petitioner.

[4]This form is designed to fit any case arising under the Workmen's Compensation Act. Only such portions as are applicable to the case in hand should be used; all others should be stricken out. For example: Subdivision (a) of paragraph 9 is applicable only in case of death of injured employé, and the latter half of paragraph 11 is applicable only in case of partial incapacity.

CHAPTER XXII.

THE ARIZONA COMPENSATION ACT.

Sec.
375. The nature and scope of act.
Sec.
375a. Text of act.

§ 375. **The nature and scope of act.**—The Arizona act puts into effect a constitutional mandate and is a direct compensation law. It covers certain enumerated hazardous employments. The common-law doctrine of no liability without fault is abrogated. A waiting period of two weeks is prescribed. The maximum payment is four thousand dollars. Compensation ceases when the employé is capable of earning in the same or other gainful employments, or otherwise, wages equal to the amount earned at the time of the accident. A medical examination is required and a refusal to submit to the examination results in a suspension of the right to compensation. Questions between the parties are determined by agreement between them, by arbitration or by submission to the attorney general of the state. Compensation is made a preferential claim. The right of election or non-election is preserved to the parties.

§ 375a. **Text of the act.**—The Arizona act was approved June 6, 1912, and became operative the first of September following. It provides:

Sec. 1. That this act is a workman's compulsory compensation law as provided in Sec. 8 of article XVIII of the State Constitution.

Sec. 2. Compulsory compensation shall be paid by his employer to any workman engaged in any employment declared and determined as in Sec. 3 of this act (as provided in Sec. 8 of article XVIII of the State

Constitution) to be especially dangerous, whether said employer be a person, firm, association, company or corporation, if in the course of the employment of said employé personal injury thereto from any accident arising out of and in the course of, such employment is caused in whole, or in part, or is contributed to, by a necessary risk or danger of such employment, or of necessary risk or danger inherent in the nature thereof, or by failure of such employer, or any of his or its officers, agents, or employé or employés, to exercise due care, or to comply with any law affecting such employment.

Sec. 3. The employments hereby declared and determined to be especially dangerous (as provided in Sec. 8 of article XVIII of the State Constitution) within the meaning of this act are as follows:

1. The operation of steam railroads, electrical railroads, street railroads, by locomotives, engines, trains, motors, or cars of any kind propelled by a steam, electricity, cable or other mechanical power, including the construction, use or repair of machinery, plants, tracks, switches, bridges, roadbeds, upon, over, and by which such railway business is operated.

2. All work when making, using or necessitating dangerous proximity to gunpowder, blasting powder, dynamite, compressed air, or any other explosive.

3. The erection or demolition of any bridge, building or structure in which there is or in which the plans and specifications require iron or steel frame work.

4. The operation of all elevators, elevating machinery or derricks or hoisting apparatus used within or on the outside of any bridge, building or other structure for conveying materials in connection with the erection or demolition of such bridge, building or structure.

5. All work on ladders or scaffolds of any kind elevated twenty (20) feet or more above the ground or floor beneath in the erection, construction, repair, paint-

ing or alteration of any building, bridge, structure or other work in which the same are used.

6. All work of construction, operation, alteration or repair, where wires, cables, switchboards, or other apparatus or machinery are in use charged with electrical current.

7. All work in the construction, alteration, or repair of pole lines for telegraph, telephone or other purposes.

8. All work in mines; and all work in quarries.

9. All work in the construction and repair of tunnels, subways and viaducts.

10. All work in mills, shops, works, yards, plants and factories where steam, electricity, or any other mechanical power, is used to operate machinery and appliances in and about such premises.

Sec. 4. In case such employé or his personal representative shall refuse to settle for such compensation (as provided in Sec. 8 of article XVIII of the State Constitution), and chooses to retain the right to sue said employer (as provided in any law provided for in Sec. 7, article XVIII of the State Constitution) he may so refuse to settle and may retain said right.

Sec. 5. It is hereby declared and determined to be contrary to public policy that any employer conducting any especially dangerous industry, through any of his or its officers, agents or employé or employés, shall fail to exercise due care, or fail to comply with any law affecting such employment, in such manner as to endanger the lives and safety of the employés thereof, without assuming the burden of the financial loss through disability entailed upon such employés, or their dependents, through such failure; and it is further declared and determined to be contrary to public policy that the burden of the financial loss to employés in such dangerous employments, or to their dependents, due to injuries to such employés received through such acci-

dents as are hereinbefore mentioned shall be borne by such employés without due compensation paid to said employés, or their dependents, by the employer conducting such employment, owing to the inability of said employés to secure employment in said employments under a free contract as to the conditions under which they will work.

Sec. 6. The common-law doctrine of no liability without fault is hereby declared and determined to be abrogated in Arizona as far as it shall be sought to be applied to the accidents hereinbefore mentioned.

Sec. 7. When, in the course of work in any of the employments described in section 3 above, personal injury by accident arising out of and in the course of such labor, service, or employment, is caused to or suffered by any workman engaged therein, by any risk or failure as specified in Sec. 2 hereof, then such employer shall be liable to and must make and pay compensation to the workman injured, and his personal representative, when death ensues, for the benefit of the estate of the deceased, for such injury at the rates and in the manner hereinafter set out in this act;

Provided, That the employer shall not be liable under this act in respect of any injury which does not disable the workman for a period of at least two weeks after the date of the accident from earning full wages at the work at which he was employed at the time of the injury, and

Provided further, That the employer shall not be liable under this act in case the employé refuses to settle for such compensation and retains his right to sue as provided in Sec. 4 of this act.

Sec. 8. When an injury is received by a workman engaged in any labor or service specified in Sec. 3 and for which the employer is made liable as specified in section 7, then the measure and amount of compensation to be made by the employer to such a workman or

his personal representative for such injuries, shall be as follows:

1. If the injury by accident does not result in death within six months from the date of the accident, but does produce or result in total incapacity of the workman for work at any gainful employment for more than two (2) weeks after the accident then the compensation to be made to such a workman by his employer shall be semi-monthly payment commencing from the date of the accident and continuing during such total incapacity of a sum equal to fifty (50) per centum of the workman's average semi-monthly earnings when at work on full time during the preceding year, if he shall have been in the employment of such employer for such length of time; but if not for a full year, then fifty (50) per centum of the average wages, whether semi-monthly, weekly, or daily, being earned by such workman during the time he was at work for his employer before and at the time of the accident.

2. In case (1) the accident does not wholly incapacitate the workman from the same or other gainful employment; or (2) in case the workman, being at first wholly incapacitated, thereafter recovers so as to be able to engage at labor in the same or other gainful employment, thereby earning wages, then in each case the amount of the semi-monthly payment shall be one-half of the difference between the average earnings of the workman at the time of the accident determined as above provided, and the average amount he is earning, or is capable of earning, thereafter, semi-monthly in the same or other employment—it being the intent and purpose of this act, that the semi-monthly payments shall not exceed, but equal, from time to time one-half the difference between the amount of average earnings ascertained as aforesaid at the time of the accident and the average amount which the workman is earning, or is capable of earning, in the same or other employment

or otherwise, after the accident, and at the time of such semi-monthly payment. Such payments shall cease upon the workman recovering and earning, or being capable of earning, in the same or other gainful employment or otherwise, wages equal to the amount being earned at the time of the accident.

Provided, however, that the payments shall continue to be made as herein determined to the workman so long as incapacity to earn wages in the same or other employment continues, but in no case shall the total amount of such payments as provided in subsections 1 and 2 of this section exceed four thousand ($4,000.00) dollars.

3. When the death of the workman results from the accident within six months thereafter, and the workman, at the time of his death leaves a widow, and a minor child, or children dependent on such workman's earnings for support and education, then the employer shall pay to the personal representative of the deceased workman for the exclusive benefit of such widow and child, or children, a sum equal to twenty-four hundred times one-half the daily wages or earnings of the decedent, determined as aforesaid, but in no event more than the sum of four thousand dollars ($4,000.00). Such sum shall be paid in lump and held in trust by such representative for such widow and children and applied by him to the support of the widow while she remains unmarried, and to the support and education of the children so long as necessary, and until eighteen (18) years of age, in such way and manner as to him shall seem best and just, under and in accordance with the directions of the court having jurisdiction of the estate of the decedent; any balance remaining unapplied at the closing of the estate of the decedent shall be distributed to the decedent's widow (if still his widow), and the children or next of kin, as provided by the law of descents. The personal representative may pay out of

said fund the reasonable and necessary expenses of medical attendance and burial of the decedent. If the workman leaves no widow or child, or children, but a father or mother or sister dependent on him for support, then said sum shall be for their benefit to be applied as above provided. If the deceased workman leaves no widow, children, or other dependents, then the employer shall pay the reasonable expenses of medical attendance upon the decedent and also provide and secure his burial in a proper cemetery, which may be chosen by the friends of the decedent.

Sec. 9. Any workman claiming compensation under the provisions of this act shall, if requested by the employer, or upon written notice by him given to the employer, submit himself for bodily examination by some competent licensed medical practitioner or surgeon of the county in which the workman then resides, to ascertain and determine the nature, character, extent, and effect of the injury to such workman at the time of such examination for the purpose of ascertaining the semi-monthly compensation then and thereafter to be made. The employer or the workman not having requested the examination may have present at the examination a medical representative by him chosen. Each party shall pay his chosen representative the expenses of such examination. The said notice shall be given at least ten (10) days before the date fixed for the examination, and the place shall be convenient for the workman to be examined. In case the employer is a corporation the notice may be served on any officer or agent thereof in the said county, and if none there, then elsewhere in the State. The examiner shall make a verified report in writing in duplicate within ten (10) days after the examination and furnish one copy to the employer and one to the workman. If any workman neglects or refuses to submit to an examination, his right to compensation, if any, shall be suspended until he notifies the employer in

writing of his readiness to submit thereto. No persons other than the physicians and surgeons aforesaid shall attend any examination except by agreement of the parties. If the employer and the workman each have an examiner and they shall agree upon and join in a report, the same shall be conclusive so long as it remains in force. If either the employer or employé, having opportunity, fails to provide an examiner, then the report of the examiner making such examination shall likewise be conclusive so long as the same remains in force. If the workman and employer each have an examiner present, and they disagree as to the nature, character, extent, or effect of the injury, and the degree of incapacity, if any, for labor on the part of the workman at the time of such examination, then they shall join in a written report stating the matters in which they agree, and in which they disagree, and mutually select some disinterested medical practitioner or surgeon of the county to whom the same shall be referred, and who shall proceed promptly to make an examination of the workman as to the matters in disagreement, and the same shall be conclusive so long as such report remains in force, which report shall be made by such disinterested examiner and verified, and a copy thereof furnished to the employer and to the workman. For making such examination, such examiner shall be entitled to a fee of ten dollars ($10.00), to be paid one-half by the employer and one-half by the workman at the time of such examination. Such examination may be required by the workman or the employer at periods not shorter than three months from the date of the last examination. The report of any examination shall supersede all previous reports. When there is disagreement between the examiners aforesaid, and they cannot agree upon a third person as above provided, then it shall be the duty of the chairman of the board of supervisors of the county, on written notice of either the

workman or employer, to appoint some licensed medical practitioner or surgeon, who shall be a resident of the county, to make such examination, and said appointee shall be entitled to the same compensation.

Sec. 10. Every workman seeking compensation under the provisions of this act, where the same is not fatal or does not render him incompetent to give the notice, shall, within two weeks after the day of the accident, give notice in writing to the employer, or his representative employing such workman, or to the foreman or other employé of the employer under whom he was working at the time of the accident, and before the workman has voluntarily left the service of the employer and during his disability. The notice shall state (1) the name and address of such workman, (2) the date and place of the accident, (3) and state in simple words the cause thereof, (4) the nature and degree of the injury sustained, (5) and that compensation is claimed under this act. The notice may be written and served personally by the workman or by any one in his behalf on any person named above in this section or by mail, postpaid, to such person, addressed to the office, place of business or residence of the person notified. No want or defect or inaccuracy of the notice shall be a bar to the right of the workman to claim and receive compensation under this act, or to maintain any proceeding to secure the same, unless the employer proves that he has been seriously prejudiced by such lack of notice. No compensation shall be claimed or allowed so long as such notice is not given. If the workman is killed, or otherwise rendered incompetent to give the notice, the same is not hereby required, nor is any notice required to be given by the personal representative of such deceased person. It shall be the duty of any one giving the notice as in this section provided, to mail a duplicate copy to the attorney general of this state.

Sec. 11. Any question which may arise between the

employer and the workman or his personal representative, under this act, shall be determined either (1) by written agreement between the parties, or (2) by arbitration, or (3) by reference and submission to the attorney general of this State; and in case of a refusal or failure of the employer and workman, or such personal representative, to agree upon a settlement by either of the modes above provided, then by a civil action at law, showing such refusal or failure as a reason for suit. If any employer fails to make and pay compensation as in this act provided, for a period of three months after the date of the accident, or for any two months or more after payment of the last monthly compensation, then the injured workman, if surviving, or the personal representative, in case of death, may bring an action in any court of competent jurisdiction, to recover and enforce the compensation herein provided. Such action shall be conducted as near as may be in the same manner as other civil action at law. The action shall be brought within one year after the happening of the accident, or after the non-payment of any semi-monthly installment theretofore fixed by agreement or otherwise; or within one year after the appointment of a personal representative of the decedent. The judgment in such action, when in favor of the plaintiff, shall be for a sum equal to the amount of payments then due and prospectively due under the provisions of this act. The judgment shall be for the total amount thereof and collectible without relief from valuation or appraisement laws. And the court awarding the judgment shall, by proper order, direct that the same shall be paid ratably to the workman, if living, in semi-monthly installments until the determination of the periods provided in this act the same as if such payments were being made voluntarily or without suit in conformity with this act. The judgment by agreement, if it appears to the court to be for the best interest of the workman, may be paid in lump

and not otherwise. The court rendering the judgment is hereby given power, from time to time, to make such orders touching the matter of payments as may appear best to provide for the maintenance and support of the workman and his family during his infirmity, and for his and their benefit and security. The employer shall have the right to stay the judgment in whole, whether the same is to be paid in lump sum or monthly installment, upon securing the same by one or more freehold sureties or a surety company, to be approved by the court rendering the judgment, who shall enter into a recognizance acknowledging themselves bound for the defendant for the payment of the judgment in lump or in partial payments, as the same is, or shall be made, payable, together with interest and costs. On failure of any one or more of such payments by the employer, execution may issue out of said court and cause, against such defendant, and his bail from time to time leviable and collectible without relief from valuation or appraisement or stay laws. The recognizance shall be written upon the order book of the court and immediately following the entry of the judgment and signed by such bail and docketed in the judgment docket of the court against such defendant and bailors, which shall bind the property of the same in the same manner as the judgment binds the property of the employer. In an action by a personal representative of a deceased workman, the court shall determine the proportions of the judgment, whether in lump or in installments, to be distributed between the widow and the child, or children, with the power to alter and amend the proportionment from time to time on petition of any party interested as the court may deem best for the support, maintenance, and education of such widow and children.

In any action under this act the court shall fix and allow, at the time of entering the judgment against the employer, a reasonable fee to the workman's attorney,

to be taxed against the employer as costs, and collectible in the same manner. From such allowance there shall be no right of appeal. Such attorney shall have no claim for compensation upon the judgment or its proceeds, other than as herein provided. But no allowance, or any fee payable by the workman to an attorney for services, or any fee payable by the workman to an attorney for services in securing a recovery or disbursement, shall ever exceed twenty-five (25) per centum of the principal of the sum recovered; and the same shall not be made a lien on the recovery of its proceeds, except as may be determined and allowed and fixed by the court.

Sec. 12. Any workman entitled to monthly or other payments from or to any judgment against any employer as above provided, as compensation shall have the same preferential claim therefor against the property and assets of the employer and any bailor, as now is allowed by law for unpaid wages or personal services. No judgment or any part thereof, nor monthly payments due, or coming due, under this act shall be assignable by the workman or subject to mortgage, levy, execution, or attachment. But the same shall stand as a continuing provision for the maintenance and support of such injured workman during his incapacity for the periods provided in this act.

Sec. 13. In case an injured workman, having a right of action under the provisions of this act, shall be mentally incompetent at the time when any right or privilege accrues thereunder to him, a guardian may be appointed by any court having jurisdiction, to secure and protect the rights of such workman; and the guardian may claim and exercise any and all such rights or privileges with the same force and effect as if the workman himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time provided in any of the foregoing sections shall run

so long as said incompetent workman has no guardian.

Sec. 14. This act shall take effect on the first day of September, 1912; and ten days from and thereafter, it shall be taken and held in law that all workmen then in the employ, and all workmen afterwards employed by an employer at manual and mechanical labor of the kinds defined in Sec. 3 of this act, are employed and working under this act, and the employer and workman shall alike be bound by and shall have each and every benefit and right given in this act the same as if a mutual contract to that effect were entered into between the employer and the workman at any time before the happening of the accident. It shall be lawful, however, for the employer or workman to disaffirm an employment under the provisions of this act by written contract between them, or by written notice by one to, and served upon, the other to that effect before the day of the accident;

Provided, such written contract does not provide for less compensation than is provided in this act. And in the absence of such written contract or written notice, served as above provided, it shall be taken and held that the employment and service is under the act; and the same shall be the sole measure of their respective rights and liabilities when and as provided in this act,

Provided, if, after the accident, either the employer or the workman shall refuse to make or accept compensation under this act or to proceed under or rely upon the provisions hereof for relief, then the other may pursue his remedy or make his defense under other existing statutes, the state constitution, or the common law, except as herein provided, as his rights may at the time exist. Any suit brought by the workman for a recovery shall be held as an election to pursue such remedy exclusively.

Sec. 15. Any employer employing workman (workmen) to perform labor or services of other kinds than

as defined in this act, and such workmen and employés may, by agreement, at any time during the employment, accept and adopt the provisions of this act as to liability for accident, compensation, and the methods of paying and securing and enforcing the same. And in every such case the provisions of this act shall be taken in law and fact to bind the parties as fully as if they were specially mentioned and embraced in the provisions of this act.

Sec. 16. This act is remedial in its purpose and shall be construed and applied so as to secure promptly and without burdensome expense to the workmen the compensation herein provided and apportioned so as to provide support during the periods named for the loss of ability to earn full wages.

Sec. 17. Nothing in this act shall be deemed or taken to repeal or effect in any way any other acts or laws passed by the first legislature of the State of Arizona, and as in so far as it refers to the same subject in other acts it shall be deemed to be accumulative only.

CHAPTER XXIII.

THE MARYLAND COMPENSATION ACT.

Sec.
376. Nature and scope of act.
376a. Text of Maryland act.
376b. Formal procedure.

§ 376. Nature and scope of act.—The Maryland act is a voluntary insurance law. It allows the employer and employé to enter into a contract of insurance which, when fulfilled, relieves the employer from liability for injuries to employés. The insurance is effected in approved casualty companies. Compensation is paid regardless of negligence and is lost only through the deliberate and willful negligence of the employé or his intoxication. The employer and employé contribute in equal proportions to the fund. The premium of the employé may be deducted from his wages. Controversies are settled through arbitration. The state commissioner of insurance acts in a supervisory capacity.

§ 376a. Text of Maryland act.—The Maryland statute on this subject was approved April 15, 1912, and became effective at once. It provides:

Section 1. Be it enacted by the general assembly of Maryland, That it shall be lawful for any employer to make a contract in writing with any employé whereby the parties may agree that employé shall become insured against accident occurring in the course of employment which results in personal injury or death, in accordance with the provisions of this act, and that in consideration of such insurance the employer shall be relieved from the consequences of acts or omissions by reason of which he would without such contract become liable toward such employé or toward the legal repre-

sentative, widow, widower. or next of kin of such employé.

Sec. 2. Such insurance shall be effected in some casualty company organized under the laws of the State of Maryland or admitted to do business in this state, provided that any employer employing not less than fifteen hundred (1500) employés may establish an insurance fund from sums contributed by himself and his employés upon condition that he undertake and agree to make up any deficiency in insurance benefits that may arise out of the inadequacy of such fund. Such fund shall be inviolably appropriated as a trust fund for the purposes of such insurance and shall not be invested otherwise. Provision shall be made for the election by the insured employés of an advisory committee, which shall be kept informed regarding the state of the insurance fund, and shall have the right to examine the books kept in connection therewith. Such books shall also be subject to the inspection of the insurance commissioner of this state in the same manner as books of insurance companies doing business in this state.

Upon the request of the employer or upon the request of the advisory committee, the insurance commissioner shall act as depository of the securities in which such funds may be invested.

If any employer desires to discontinue an insurance fund maintained by him, or if he discontinues his business without transferring the same to a successor or assign, taking over and agreeing to maintain such fund, he shall notify the insurance commissioner of his purpose, who shall thereupon supervise the disposition of the insurance fund. Such fund shall be distributed among those equitably entitled to it according to their contribution (not taking into consideration expenses of the management), and where those entitled to any part of the fund can not be discovered or ascertained the money remaining unclaimed shall be paid into the in-

surance department, to be held and disposed of as may be provided by law.

The insurance commissioner shall be entitled to be paid out of such fund the reasonable expenses of his supervision, including a compensation not to exceed ten dollars per day for the time of any person or persons (other than a salaried employé of his office) employed by him for the purpose of such supervision necessarily spent in connection therewith.

Compensation Regardless of Negligence.

Sec. 3. Such insurance shall cover the risk of personal injury by accident arising out of and in course of the employment resulting in death, provided death occur within twelve months from the time of such injury, or resulting in disability, whether the same be total or partial, permanent or temporary. But no one shall be entitled to any benefit hereunder where the injury is the result of the employé's intoxication, or wilful and deliberate act or deliberate intention to produce such injury.

Sec. 4. The insurance in case of death shall be for the benefit of such persons being the widow, widower, father, mother, son or daughter, as are dependent wholly or in part for their support upon the earnings of such employé (all of which persons are hereinafter designated as dependents of such employé), or of such of them as may be named in the contract or policy to which it refers and the person for whose benefit such insurance is made should be bound by the agreement authorized by the first section of this act.

Sec. 5. In order to satisfy the requirements of this act, the benefits payable under such insurance shall be at least as follows:

(I) In case of death:

(a) If the employé insures for the benefit of any dependent wholly dependent upon his wages at the

time of his death, a sum equal to his wages in the employment of said employer during a period of three years next preceding the accident, but not less in any case than the sum of one thousand dollars; provided, that the amount of any weekly payment made under such insurance or any lump sum paid in redemption thereof, may be deducted from such sum; and if the period of the employé's employment by said employer has been less than said three years, then the amount of his earnings during said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment by said employer.

(b) If the employé insures for the benefit only of persons partly dependent upon his wages at the time of his death, then a sum equal to the payment provided for the benefit of persons wholly dependent, less six times the average annual earnings; or if employed for less than a year, then less three hundred times the average weekly earnings of said dependent person or persons partly dependent on his wages.

(c) If the employé leaves no dependents, then the reasonable expenses of his medical attendance shall be paid, and in addition burial expenses not less than seventy-five dollars nor more than one hundred dollars.

And the contract or policy therein referred to may provide for the payment, instead of a lump sum, of a weekly sum which, in the case of persons wholly dependent, shall not be less than the weekly payment in case of total disability hereinafter provided for, and which, in case of persons partly dependent, shall not be less than the weekly payment in case of total disability, less the amounts earned by the persons partly dependent, and which sum may be divided between the dependent in such a manner as such contract or policy may provide or as may otherwise be agreed upon; or such contract or policy may provide for a combination of

lump sums, weekly payment, or for the substitute of one for the other.

(II) In case of injury not resulting in death, when total disability results from the injury, a weekly payment during the period of such disability shall be paid to the insured, which shall not be less than fifty per cent. of his average weekly wages during the previous twelve months, if he has been so long employed by the contracting employer; if not, then a weekly benefit during such shorter period as he has been in the employment of said employer.

(III) In case of injury not resulting in death, where partial disability results, such weekly payments shall be made during the period of such partial disability as is equal to the difference between the weekly benefit payment during the period of total disability and average amount which the injured person is able to earn after the accident.

Loss by actual separation at or above the wrist or ankles of both hands or both feet, or of one hand and one foot, or the irrevocable loss of both eyes, shall be deemed to be equal to total disability.

The loss by actual separation at or above the wrist or ankle of one hand or one foot shall be equal to one-half of total disability, and the loss of one eye shall be equal to one-fifth of total disability. Total disability shall be deemed to mean inability to carry on any gainful occupation.

The contract or policy herein referred to may provide that no benefits shall be paid in case of any injury which does not incapacitate the employé for a period of at least one week from earning full wages at the work at which he was employed at the time of the accident.

Sec. 6. Any contract in order to satisfy the requirements of this act shall provide that the employer shall contribute not less than fifty per cent. of the insurance

premiums and the employés shall contribute the remainder of the premiums.

In case the employer provides any insurance fund out of contributions made by himself and his own employés as above provided, such employer shall pay the whole of the expenses of the management of such fund, and all contributions shall be paid into such fund without any deduction by reason of such expense.

Sec. 7. The contract may provide that upon penalty of forfeiture of the benefits of the insurance, the employé shall give reasonable and timely notice to his employer, to be fixed by the terms of this contract, of any accident which may entitle him to the benefit of such insurance; and that he shall submit himself to medical examination as required by the employer at the employer's expense.

Sec. 8. The contract may provide that the premium payable by the employés shall be deducted from their wages.

An employer who shall wilfully and feloniously appropriate the amounts so deducted from the wages to any use other than the payment of insurance premium as stipulated in the contract, shall be guilty of embezzlement and shall be punished accordingly.

Sec. 9. The contract between the employer and employé may provide that the insurance premiums shall be paid into the hands of a treasurer to be elected or appointed by the employés or by the employer and the employés in such manner and under such voting arrangement as the contract may specify.

The payment of the premiums to the treasurer shall relieve the employer, and the penalty above prescribed for misappropriation of the funds required to be applied to insurance shall apply to such treasurer.

Sec. 10. In case of non-payment of the premiums within one month after the same are payable, the insurance company shall within two months after the ex-

piration of such month send notice of such default by mail to the insured and to the insurance commissioner of the state.

The insurance policy or contract between the employer and employé may specify a shorter period than the one herein provided for.

Until the required notice shall have been sent, the policy shall not be forfeited for non-payment of the premium.

Sec. 11. The employer may also advance the premiums of insurance for such number of employés and at such rates as may be agreed upon between him and the insurance company, and may thereupon be supplied by the insurance company with blank policies to be filled in by him with name of any beneficiary under the provisions of this act, and to be executed by him as agent of such company, and he may thereupon reimburse himself for the amounts payable by the employé by deducting the same from the wages of such employé.

Sec. 12. Such contract may provide that upon termination of his employment from any cause whatever the employé and his dependent shall cease to be entitled to the benefits of such insurance except as regards accidents occurring before the termination of his employment.

Arbitration.

Sec. 13. Such contract may provide that any controversy regarding the extent of disability or the extent of dependency, or any controversy between dependents as to the amounts payable to them respectively, shall be settled by arbitration, the arbitrators to be named by mutual consent of the parties; and should the parties fail to agree upon an arbitrator, then the arbitrator to be named by a judge of the Circuit Court of the county, or city of Baltimore, in which the accident happened, and the award of such arbitrator shall be binding upon both employé or his dependents, as the case may be.

Sec. 14. Any insurance paid in accordance with the provisions of this act shall not be liable to attachment by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or by operation of law, to pay any debt or liability of the insured or any beneficiary, nor shall any claim to insurance money be assignable by payee before the same is paid.

Sec. 15. A contract of insurance in pursuance of the terms of this act shall not relieve the employer from liability for any accident directly due to his failure to supply any safeguard required to be provided for the protection of employés, by or pursuant to any statute or ordinance, or any regulation under any statute or ordinance, unless it shall have been impossible to comply with such requirement by the time the accident happened, or unless the enforcement thereof has been suspended by order of court of competent jurisdiction.

Sec. 16. Every employer shall file with the insurance commissioner a copy of the form of contract and policy which he shall use under the provisions of this act, and in the event of such form being departed from in any particular case shall also file a copy of such particular contract.

If he shall fail to do so, he shall be liable to a penalty of fifty dollars in each case, to be recovered in an action of debt in the name of the State.

Sec. 17. A quarterly report of all settlement and payment of insurance benefits shall be filed by the employer with the insurance commissioner. If such employer shall fail to make such report in thirty days after demand by insurance commissioner, he shall be liable to a penalty of fifty dollars, to be recovered in an action of debt in the name of the State.

Sec. 18. The insurance commissioner shall prepare blanks of contract and policy complying with the pro-

visions of this act, and shall distribute the same, upon application, free of charge.

Sec. 19. Nothing in this act contained shall be construed as authorizing any employer, any officer or agent of such employer to require any employé or any person seeking employment, as a condition of such employment or of the continuance of such employment, to enter into a contract, or to continue in such contract, such as is authorized to be made by section 1 of this act.

Sec. 20. All provisions in the statutes inconsistent with this act are hereby repealed.

Sec. 21. This act shall take effect and be in force from the date of its passage.

§ 376b. **Formal procedure.**—The act imposes upon the commissioner of insurance the duty to prepare and distribute two forms. These forms are the contract and the policy complying with the provisions of the act.[1]

[1] Insurance Commissioner W. M. Shehan, of Maryland, under date of November 8, 1912, states that as yet no application has been made to the Insurance Department for forms of contract, or policy. As soon as some concrete case calls for their use, these forms will be prepared.

CHAPTER XXIV.

FEDERAL COMPENSATION ACTS FOR ARTISANS AND LABORERS INJURED IN THE SERVICE OF THE GOVERNMENT.

Sec.
377. Nature and scope of act.
378. Text of act of 1908.
379. Text of act of 1911.
380. Text of act of 1912.
381. Rules and regulations.
382. Formal procedure under the Federal acts.
383. Form of notice of right to compensation.
384. Forms of filing claims.
385. Procedure in case of disability.
386. Form of immediate report of injury.
387. Form of report of termination of disability.
388. Form of report of death from injury.
389. Form of claim for compensation on account of injury.
390. Form of certificate of disability.
Sec.
391. Form of request for medical examination to secure continuance of compensation beyond six months.
392. Form of report of discontinuance of compensation payments.
393. Procedure in case of death.
394. Form of claim for compention on account of death.
395. Form of notice of right to compensation.
396. Construction of the Federal acts.
397. "Injury" and "accident" defined.
398. "Injury" and "Disease without injury"—Disease contracted in the course of employment.
399. "In the course of such employment" defined.

§ 377. **Nature and scope of act.**—The Federal act is designed for the protection of artisans and laborers in the employ of the government in its manufacturing establishments, arsenals and navy yards, in the construction of river and harbor and fortification work, in hazardous employment on construction work in the reclamation of arid lands, and in hazardous employment under the Isthmian Canal Commission. Compensation is provided for all such persons injured or killed in the course of their employment. Compensation is denied,

however, where the injury does not continue more than fifteen days and in cases where the injuries are the result of the negligence or misconduct of the employé. The administration of the act and its construction are under the control of the secretary of commerce and labor.

§ 378. Text of act of 1908.—The act of May 30, 1908 provides: That when, on or after August first, nineteen hundred and eight, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy yards, or in the construction of river and harbor or fortification work or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission, is injured in the course of such employment, such employé shall be entitled to receive for one year thereafter, unless such employé, in the opinion of the secretary of commerce and labor, be sooner able to resume work, the same pay as if he continued to be employed, such payment to be made under such regulations as the secretary of commerce and labor may prescribe: Provided, That no compensation shall be paid under this act where the injury is due to the negligence or misconduct of the employé injured, nor unless said injury shall continue for more than fifteen days. All questions of negligence or misconduct shall be determined by the secretary of commerce and labor.

Sec. 2. That if any artisan or laborer so employed shall die during the said year by reason of such injury received in the course of such employment, leaving a widow, or a child or children under sixteen years of age, or a dependent parent, such widow and child or children and dependent parent shall be entitled to receive, in such portions and under such regulations as the secretary of commerce and labor may prescribe, the

same amount, for the remainder of the said year, that said artisan or laborer would be entitled to receive as pay if such employé were alive and continued to be employed: Provided, That if the widow shall die at any time during the said year her portion of said amount shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any.

Sec. 3. That whenever an accident occurs to any employé embraced within the terms of the first section of this act, and which results in death or a probable incapacity for work, it shall be the duty of the official superior of such employé to at once report such accident and the injury resulting therefrom to the head of his bureau or independent office, and his report shall be immediately communicated through regular official channels to the secretary of commerce and labor. Such report shall state, first, the time, cause, and nature of the accident and injury and the probable duration of the injury resulting therefrom; second, whether the accident arose out of or in the course of the injured person's employment; third, whether the accident was due to negligence or misconduct on the part of the employé injured; fourth, any other matters required by such rules and regulations as the secretary of commerce and labor may prescribe. The head of each department or independent office shall have power, however, to charge a special official with the duty of making such reports.

Sec. 4. That in the case of any accident which shall result in death, the persons entitled to compensation under this act or their legal representatives shall, within ninety days after such death, file with the secretary of commerce and labor an affidavit setting forth their relationship to the deceased and the ground of their claim for compensation under the provisions of this act. This shall be accompanied by the certificate of

the attending physician setting forth the fact and cause of death, or the nonproduction of the certificate shall be satisfactorily accounted for. In the case of incapacity for work lasting more than fifteen days, the injured party desiring to take the benefit of this act shall, within a reasonable period after the expiration of such time, file with his official superior, to be forwarded through regular official channels to the secretary of commerce and labor, an affidavit setting forth the grounds of his claim for compensation, to be accompanied by a certificate of the attending physician as to the cause and nature of the injury and probable duration of the incapacity, or the nonproduction of the certificate shall be satisfactorily accounted for. If the secretary of commerce and labor shall find from the report and affidavit or other evidence produced by the claimant or his or her legal representatives, or from such additional investigation as the secretary of commerce and labor may direct, that a claim for compensation is established under this act, the compensation to be paid shall be determined as provided under this act and approved for payment by the secretary of commerce and labor.

Sec. 5. That the employé shall, whenever and as often as required by the secretary of commerce and labor, at least once in six months, submit to medical examination, to be provided and paid for under the direction of the secretary, and if such employé refuses to submit to or obstructs such examination his or her right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.

Sec. 6. That payments under this act are only to be made to the beneficiaries or their legal representatives other than assignees, and shall not be subject to the claims of creditors.

Sec. 7. That the United States shall not exempt itself from liability under this act by any contract, agree-

ment, rule, or regulation, and any such contract, agreement, rule, or regulation shall be pro tanto void.

Sec. 8. That all acts or parts of acts in conflict herewith or providing a different scale of compensation or otherwise regulating its payment are hereby repealed.

§ 379. Text of act of 1911.—The act of March 4, 1911, extends the benefits of the preceding act to all employés of the Isthmian Canal Commission without reference to the hazard of their employment; it also confers the administration of the act, so far as it relates to employés of the Commission, or the chairman of said Commission. It provides:

Sec. 5. Hereafter the act granting to certain employés of the United States the right to receive from it compensation for injuries sustained in the course of their employment shall apply to all employés under the Isthmian Canal Commission, when injured in the course of their employment; and claims for compensation on account of injury or death resulting from an accident occurring hereafter shall be settled by the chairman of the Isthmian Canal Commission, who shall, as to such claims and under such regulations as he may prescribe, perform all the duties now devolving upon the secretary of commerce and labor: Provided, That when an injury results in death claim for compensation on account thereof shall be filed within one year after such death.

§ 380. Text of act of 1912.—The provisions of the act of 1908 are extended by the amendment of March 11, 1912 to include the employés of the department of mines and forestry. It provides:

That the provisions of the act approved May thirtieth, nineteen hundred and eight, entitled "An act granting to certain employés of the United States the right to receive from it compensation for injuries sustained in the course of their employment," shall, in addition to the classes of persons therein designated, be

held to apply to any artisan, laborer, or other employé engaged in any hazardous work under the Bureau of Mines or the Forestry Service of the United States: Provided, That this act shall not be held to embrace any case arising prior to its passage. An act of July 27th of the same year, authorizing additional aids to navigation in the lighthouse service provides that the benefit of this act "shall be extended to persons employed by the United States in any hazardous employment in the lighthouse service."

§ 381. Rules and regulations.—The department has prescribed certain necessary regulations concerning the duties of employés, official superiors and medical officers. The rules as to the duties of employés are as follows:

1. Reports of Injuries.—Whenever any injury is sustained by an employé in the course of his employment, he shall immediately report the same to his official superior, if he is able to do so, giving also a statement of the facts and the names of witnesses, if any.

2. First-aid Treatment.—No matter how slight the injury sustained, the injured employé shall immediately apply to the dispensary or medical officer, if there be one, for examination and for first-aid treatment, and it shall be the duty of his official superior to direct him to do so.

3. Reports of Disability.—In case the disability arises some time after the injury has been received, it shall be the duty of the injured employé to notify his official superior within 48 hours from the beginning of such disability.

4. Treatment.—It shall be the duty of each injured employé intending to take advantage of the provisions of the act to obtain necessary medical and surgical treatment and to comply with all reasonable orders for treatment and conduct which the attending physician may

give. He shall also submit to such medical examinations as his official superior may from time to time direct.

5. Notices of Continuing Disability.—Every employé injured in the course of employment who is unable to return to work because of such injury, shall, within 24 hours, inform his official superior of such fact, either in person or by mail, telephone, or messenger. Such notice shall be given by the injured employé or for him every week, unless, in the opinion of the official superior, the permanent nature of the injury makes this notice unnecessary. Such notice should state when the injured employé was last seen by his attending physician.

6. Examinations.—For the purpose of the medical examinations prescribed by the act, the injured employé shall appear at the dispensary of the establishment whenever directed to do so; but if he claims to be unable to present himself for such examination the medical officer or other officially designated physician may call at the residence of the injured employé in order to make an examination. The injured employé shall be entitled to have his attending physician present during such examination.

7. Disagreements.—If the injured employé refuses to accept the opinion of the official examining physician as to his ability to resume work, either because of a different opinion held by his private physician or for any other reason, the employé shall immediately so report to his official superior, who will in turn report the same to the secretary of commerce and labor.

8. Examinations by Order of the Department of Commerce and Labor.—On receipt of reports concerning disagreement between the claimant or his physician and the official examining physician, the secretary of commerce and labor will immediately order an examination of the claimant by a physician designated by him, so as to ascertain the claimant's physical condi-

tion; and if the employé refuses to submit to or obstructs such examination the right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.

9. Claims.—The claim, properly filled out, must be presented by the injured employé to his official superior, who shall forward the same, with the statements of witnesses, if there were witnesses, through the regular official channels for transmission to the secretary of commerce and labor.

10. Certificates.—In cases of continuing disability the injured employé shall furnish such medical certificates from time to time as the official superior may require.

11. Disregard of Instructions.—Where an injured employé shall fail to make any of the reports prescribed in these regulations, or refuses to submit himself to examination by the medical officer or other officially designated physician, when ordered by his official superior to do so, such refusal or failure will be considered by the secretary of commerce and labor as presumptive evidence against his right to compensation under the law.

The rules as to the duties of official superiors are as follows:

12. Record of Accident.—Whenever an accident causing injury to an employé comes to the knowledge of the person in charge of such employé he should immediately secure a record of the cause and nature of the accident and the nature and extent of the injury, however slight. The names and testimony of witnesses should also be secured, and the employé directed to apply to the dispensary or medical officer, if there be one, for examination and first-aid treatment.

13. Reports of Injuries.—All injuries which prevent the employé from performing work for one day or longer should be reported to the secretary of com-

merce and labor by the official superior of such employé, on the form provided for that purpose, within 48 hours after such injuries have been brought to the notice of such official superior. The reports called for in paragraphs numbered 1, 3, 13, 14, and 16 should be made for all employés regardless of the application of the provisions governing compensation.

14. Report of Termination of Disability.—Whenever a person who has been reported disabled by an accident is able to return to work his official superior should immediately report the termination of such disability to the secretary of commerce and labor on the proper form.

15. Disagreements.—The official superior should make immediate report directly to the secretary of commerce and labor of all cases of disagreement between the injured employé and the official examining physician as to the ability of the employé to resume work.

16. Report of Death.—Whenever an injury received in the course of employment results in death, either immediately or within one year thereafter, such death should be reported on the proper form as soon as possible after the knowledge of such death reaches the official superior of the deceased employé.

17. Blanks to be Furnished.—Whenever the official superior of an injured employé has reason to believe from the statement of the medical officer or other officially designated physician, or from any other evidence, that disability has lasted more than 15 days, he should furnish such employé with a blank form for claim and call his attention to the provisions of the compensation act. Blank forms should be furnished upon request to any employé wishing to make a claim.

18. Indorsement of Claims.—The official superior or other person designated should either fill out and sign the certificate of approval provided for that pur-

pose, or indicate the reasons for his refusal to give his approval. In either case, statements of witnesses, if any, and copies of the records of the examination of the claimant by the medical officer or officially designated physician, if such examinations have been made, should be attached to the claim, and the entire record submitted to the secretary of commerce and labor, to whom the determination of the validity of all claims is committed by the act.

19. Claims to be Forwarded.—All claims for compensation when filled out and presented by injured employés to their official superiors should be forwarded by them through the regular official channels for transmission to the secretary of commerce and labor. No letter of transmittal is necessary. All information desired should be made part of the indorsement on such claims.

20. Approval or Disapproval.—Notice of the approval or disapproval of claims will be forwarded from the office of the secretary of commerce and labor to the heads of the respective departments or independent office, for transmittal to the official superior of the employé.

21. Payments.—Payments under this law should be made at the regular intervals at which salaries are paid to all employés, except payments accrued before the receipt of the approved claim, which should be made as soon after the receipt of the approval as possible so as to avoid unnecessary hardship to the employé. If subsistence is furnished during employment but not during the period of disability, the value of the subsistence should be allowed to the injured workman during disability in addition to the wages usually paid in cash.

When compensation is approved for a fixed period, payments may be made on the authority of such approval without further evidence.

When compensation is approved for an indefinite

period, each payment shall be based upon the certificate signed by the claimant and approved by the claimant's official superior to the effect that during the time covered by the said payment the claimant was unable to resume work and that inability to so resume work was the result of the injury for which compensation was granted.

In no case shall annual leave be charged against any portion of the period for which compensation is due.

22. Certificates.—If the claimant's superior officer is unable to satisfy himself that the claimant was unable to resume work for any period for which compensation is claimed, he may require that the claimant submit to him a certificate from a duly authorized medical practitioner showing the continuance of the inability to resume work.

23. Special Examinations.—If this medical certificate is satisfactory to the official superior, he should then approve payment; but if the certificate does not satisfy him he may require the medical officer or officially designated physician, where such is available, to examine the claimant for the purpose of ascertaining whether the disability still exists.

24. Payments Withheld.—In all cases where the continuance of disability has not been proved to the satisfaction of the superior officer, or where the results of the examination of the claimant by the medical officer or officially designated physician are contradictory to the statements of the attending physician, payments should be withheld and a report of these facts should be immediately forwarded directly to the secretary of commerce and labor. A detailed report of the examination of the claimant by the medical officer or officially designated physician, if any has been made, should accompany this report, together with the statement of the employé and a certificate of his attending physician.

25. Examination by Physician of Depart-

ment of Commerce and Labor.—On receipt of reports concerning disagreement between the claimant or his physician and the official superior, the secretary of commerce and labor will immediately order an examination of the claimant by a physician designated by him, so as to ascertain the claimant's ability to return to work.

26. Decision.—The decision of the department will then be communicated to the official superior. If the claim of the injured person be sustained, the amount due him should be paid as soon as possible after the receipt of the decision.

27. Discontinuance of Payments.—When payments are discontinued because of recovery or other reason, such fact should be reported to the department of commerce and labor on the blanks furnished for that purpose.

28. Examination at End of Six Months.—Whenever compensation has been paid for any case of disability for five months and there is a possibility of the disability lasting so as to extend over six months, the official superior of the injured employé should report the fact to the secretary of commerce and labor, so as to enable him to order as soon as possible a medical examination.

29. Death.—Whenever a person in the employ of the government shall die as the result of injury received in the course of his employment, and his wife, his children under 16 years of age, or his parents desire to claim payment under this act, they should be furnished with blank forms of claim for compensation. If the official superior has reason to believe that the person so injured is covered by the provisions of the law he should inform the dependent relatives, if the names and addresses of such relatives can be ascertained by him, of the necessary procedure under the law and the provision as to the 90-day limit.

If the persons who may be entitled to compensation

on account of the death of an employé are located in a foreign country, they may file their affidavits of claim, respectively, with the consular officer of the United States located most conveniently, and any affidavit so filed within 90 days after the death will be considered as having been duly filed with the secretary of commerce and labor, as required by section 4 of the compensation act.

30. Death Benefits.—Claims for compensation on account of death should be forwarded to the secretary of commerce and labor. If the claim be established and compensation is due to more than one person the secretary of commerce and labor will designate the portion to be paid to each claimant.

31. Employés to Have Laws and Regulations.—Copies of the law and the regulations should be on hand in each establishment and, upon request, furnished free to all employés for their information and guidance.

A summary prepared by the secretary of commerce and labor, presenting the principal provisions of the compensation act and the regulations governing its application, should be posted in establishments affected by the act, in such numbers and places as to be easily accessible to all the workmen.

The duties of medical officers are as follows:

32. First-Aid Treatment.—The medical officer of each establishment or his assistant, where such services are available, should render such immediate aid as is necessary to each employé of the establishment injured while on duty, and make a report to the head of the establishment of the exact extent of the injury and the nature of the treatment administered, and a detailed record of the same should be kept on file in his office.

33. Subsequent Examinations.—The medical officer or officially designated physician should examine the injured employé as frequently as is necessary in his

opinion or in the opinion of the head of the establishment during the absence of such employé from his work.

34. Records.—A record of each examination by the medical officer or officially designated physician should be made in detail and contain an accurate description of the general condition of the employé, the state of the injuries, and an opinion as to whether the disability still continues. Such record should be kept on file in the office of the medical officer or officially designated physician, and reports of the findings should be made to the head of the establishment.

35. Treatment.—The medical officer or officially designated physician should ascertain whether the injured employé is under treatment of a duly licensed practitioner of medicine, and if he finds this not to be the case he should inform the injured employé of the necessity of medical attendance whenever such necessity exists.

36. Opinion as to Termination of Disability. —The medical officer or officially designated physician making any examination should inform the injured employé of his opinion concerning the continuance or termination of disability.

§ 382. Formal procedure under the Federal acts.—The Department of Commerce and Labor, Bureau of Labor, has prescribed the following forms for use in administering the compensation act: (1), Immediate report of injury; (2), Report of termination of disability; (3), Report of death from injury; (4), Claim for compensation on account of injury; (5), Certificate of disability; (6), Request for medical examination; (7), Report of discontinuance of compensation payments; (8), Claim for compensation on account of death; (9), Notice of right to compensation (for posting).

A supply of these forms will be furnished each department and independent establishment by the secre-

tary of commerce and labor, upon request. Official superiors should procure necessary forms from the head of their department, bureau, or establishment.

§ 383. Form of notice of right to compensation.—By an act of Congress of May 30, 1908, as amended by later enactments, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals or navy yards, or in the construction of river and harbor or fortification work, or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, any employé under the Isthmian Canal Commission, and any artisan, laborer, or other employé engaged in any hazardous work under the Bureau of Mines or the Forestry Service of the United States, shall, if injured in the course of such employment, be entitled to receive during disability the same pay as if he had continued to be employed. This payment may not extend beyond one year from the beginning of the disability.

To give a right to compensation, the disability must continue for more than fifteen days, and must not be due to the negligence or misconduct of the injured employé.

If the injury results in death, the widow, child or children, under sixteen years of age, or dependent parents of the deceased employé have the same right to compensation that the employé would have had if he had lived. In case of death, claims must be filed within ninety days after the death takes place, except for employés under the Isthmian Canal Commission.

All questions of negligence or misconduct shall be determined by the secretary of commerce and labor, who is charged with the administration of the law, except in its application to employés of the Isthmian Canal Commission.

Where an employé is entitled to compensation under this act, no sick or annual leave should be taken instead of such compensation.

§ 384. Forms of filing claims.—Blank forms for filing claims are furnished by the secretary of commerce and labor, and may be obtained from the persons who have a supervision over the employés in the branches of service covered by the act. These are to be furnished to all persons believing themselves entitled to compensation under the act

§ 385. Procedure in case of disability.—When an artisan or laborer believes himself entitled to compensation under this act, he must make out a claim for compensation, accompanied by certificates from a duly qualified physician and from his official superior, on the forms provided.

The claim and certificates should be promptly filed with the official superior of the claimant, and that official will then forward them through the regular channels to the secretary of commerce and labor.

If the claim is approved by the secretary of commerce and labor, the injured employe will be entitled to payment of compensation during disability, but not exceeding one year, the same as if he had continued to be employed.

In order to secure this compensation the injured employé on each pay day must file with the disbursing officer a certificate that he is still unable to resume work, which certificate must be approved by his official superior, and, if required, by a physician cognizant of the claimant's physical condition.

§ 386. Form of immediate report of injury. (1)[1]

1. Department_____; 2. Bureau or office_____

[1]To be submitted to the Secretary of Commerce and Labor, through official channels, not later than the second day after the occurrence of each case of injury interrupting work for one day or longer.

3. Plant in which injured person was employed_____
(Shop, yard, dock, etc.)
4. Location of plant (postoffice address):_____
5. Full name of injured employé_____
6. Age____; 7. Sex____; 8. Conjugal condition____; 9. Race____
10. Occupation_____; 11. Rate of pay at time of accident___per____
_____
(If subsistence is furnished, its value should be included in the above answer.)
12. Number of hours constituting a day's labor in occupation of injured employé_____
13. Time of accidental injury___(Date)___, ___(Day of week)___, ___(Hour)___
14. Place and character of work of injured person at time of injury
_____
15. Description of the accident_____
_____
_____
16. Nature and extent of injury_____
_____
17. Was the injury received in the course of the employment?_____
18. Was the injury due to negligence or misconduct on the part of the injured employé?_____
_____
19. Eyewitnesses to accident:

Name.	Age.	Occupation.	Address.
_____	_____	_____	_____
_____	_____	_____	_____

20. Did injury result in immediate incapacity for work?_____; If not, when did incapacity begin?_____
21. Probable duration of incapacity for work due to injury_____ (Base answer on statement of injured person's physician if one is called.)
22. Name and address of physician who first attended injured person_____
23. Remarks: _____

The above report is made this_____day of_____, 191__, pursuant to regulations governing the application of the Act of May 30, 1908.

Signature of person making report: _____
Title: _____

§ 387. Form of report of termination of disability. (2)[2]

[2]To be submitted to the Secretary of Commerce and Labor, through official channels, immediately upon termination of disability of an employé whose injury was previously reported.

1. Department _____; 2. Bureau or office_____
3. Plant in which injured person was employed_____
(Shop, yard, dock, etc.)
4. Location of plant (postoffice address): _____
5. Name of injured employé: _____
6. Occupation at time of accident: _____
7. Date of accident resulting in injury: _____, 191__
8. Date of beginning of disability: _____, 191__
9. Date of termination of disability: _____, 191__
(Last day disabled.)
10. Did the employé return to work after termination of disability? _____; if so, when?_____
11. Actual time disabled on account of injury (Sundays and holidays included): _____ days.
12. Working days employé was absent from work on account of injury: _____
13. Hours constituting a day's labor in occupation of employé: _____
14. Remarks: _____

The above report is made to the Secretary of Commerce and Labor this_____day of_____, 191__, pursuant to regulations governing the application of the act of May 30, 1908.

Signature of person making report_____
Title: _____

§ 388. Form of report of death from injury. (3)[8]

1. Department_____; 2. Bureau or office_____
3. Plant in which deceased person was employed_____(Shop, yard, dock, etc.) _____
4. Location of plant (postoffice address)_____
5. Full name of deceased employé_____
6. Age____; 7. Sex____; 8. Conjugal condition____; 9. Race____
10. Occupation_____; 11. Rate of pay at time of accident _____ per _____
12. Hours constituting a day's labor in occupation of deceased employé _____
13. Time of accidental injury: Date_____, 191__; Day of week_____; Hour_____m.
14. Place and character of work of deceased person at time of accident_____
15 Description of the accident: _____
16. Nature and extent of injury_____
17. Was the injury received in the course of the employment?_____ (Yes or no.)

[8] To be submitted to the Secretary of Commerce and Labor, through official channels, immediately following any death resulting from an injury received in the course of the employment.

18. Was the injury due to the negligence or misconduct of the deceased employé?_____

19. Eyewitnesses to accident:

Name.	Age.	Occupation.	Address.
_____	_____	_____	_____
_____	_____	_____	_____

20. Date of death_____, 191__; Place of death_____

21. Immediate cause of death_____

22. Working time lost before death on account of injury_____days.

23. Wife of deceased: Name_____; Address_____

24. Children of deceased under 16 years of age:

Name.	Date of birth.
_____	_____
_____	_____

25. Parents of deceased:

Name.	Address.
Father_____	_____
Mother_____	_____

26. Name and address of physician who attended deceased person: _____

27. Remarks: _____

The above report is made this_____day of_____, 191__, pursuant to regulations governing the application of the act of May 30, 1908.

Signature of person making report: _____

Title: _____

§ 389. Form of claim for compensation on account of injury. (4)[3]

The Secretary of Commerce and Labor, Washington, D. C.:

Sir—I hereby make claim for compensation on account of an injury sustained by me in the course of my employment, and without negligence or misconduct on my part, as stated below.

1. Full name of injured employé: _____
2. Age: _____; 3. Sex: _____; 4. Conjugal condition: _____
5. Address: _____
6. Occupation at time of injury: _____
7. Wages being earned at time of injury: _____ per_____ (If subsistence is furnished, its value should be included in the above answer.)
8. Time of accidental injury: __(Date)___; ___(Day of week)___; ___(Hour)___
9. Place and character of work at time of injury: _____
10. Description of the accident: _____

[3] To be filed with the official superior for transmittal to the Secretary of Commerce and Labor through official channels.

11. Names of witnesses: _____
12. Nature and extent of injury: _____
13. When did incapacity for work begin?_____
14. Are you now able to do your ordinary work?_____; if so, when were you first able to do such work?_____
15. Have you done any work outside of your regular employment since you were injured?_____; if so, what, and for how long? _____

I hereby certify that each and every statement set forth above is true to the best of my knowledge and belief.

_____
Claimant.

_____ }ss.
_____ }

Subscribed and sworn to before me this_____day of_____, 191__.

Signature of official administering oath: _____
(Seal.) Title: _____
In and for _____

STATEMENTS OF WITNESSES.

(In all cases where the circumstances of the accident and the fact of injury are not clear, or the statements of the official superior do not agree with those of the claimant, statements of witnesses as to the points involved should be furnished in the space below.)

Statement of ____(Name)___, ___(Occupation)___, ___(Address)___
_____
_____

PHYSICIAN'S CERTIFICATE.

(If any of the information called for below can not be supplied, the physician should enter an explanation under "Remarks.")

1. Name of employé for whom certificate is given: _____
2. Date of first treatment:_____; 3. Date of last treatment:_____
4. Approximate number of treatments or visits during the above period: _____
5. Nature of illness or disability:_____
6. Extent and condition of the injury and the general condition of the patient at first examination: (Describe in detail, stating all objective and subjective sigus and symptoms.)_____
7. Was any surgical treatment required?_____; if so, what? _____
8. Was the patient confined to bed?_____; if so, how long? _____
9. If not confined to bed, was he confined to his home?_____; if so, how long?_____

10. Was he disabled from performing his ordinary duties?_____; if so, when did such disability begin?_____
11. Has the patient sufficiently recovered to resume his occupation? _____; if so, on what date was he first able to resume work?_____; if not, how long in your opinion will the disability probably continue?_____
12. In your opinion are any permanent results from his injury probable?_____; if so, describe them in detail: _____
13. Has patient given you a history of accident?_____; if so, state it briefly: _____
14. In your opinion is the condition described above due to such injury as stated by the patient?_____
15. Remarks: _____

I hereby certify that each and every statement set forth above is true to the best of my knowledge and belief.

Signature of certifying physician: _____

Address: _____

Date of license to practice medicine: _____

Date of making certificate: _____, 191__

Note. It is very important that above certificate be furnished, but if for any cause it can not be secured, give full explanation below: _____

CERTIFICATE OF OFFICIAL SUPERIOR OF INJURED EMPLOYE.

Department _____ Bureau or Office_____

Date, _____, 191__

1. Name of employé for whom certificate is furnished:_____
2. Occupation: _____; 3. Date of injury, _____, 191__
4. Description of the accident: _____
5. Was the injury received in the course of the employment?_____
6. Was the injury due to the negligence or misconduct of the employé?_____; if so, give full description of such negligence or misconduct: _____
7. Was the employé unable to perform his ordinary duties as a result of the injury? _____; if so, for what period was his absence from work due to such injury?
   From_____, 191__, to_____, 191__, inclusive.

SCHEDULE OF WORK SINCE INJURY.

(The schedule should cover all time from the date of injury to the date of this certificate.)

Employé was absent from work—				Employé worked.			
From—		To—		From—		To—	
Date	Hour.	Date.	Hour.	Date.	Hour.	Date.	Hour.
____, 19__	____m.	____, 19__	____m.	____, 19__	____m.	____, 19__	___m.
____, 19__	____m.	____, 19__	____m.	____, 19__	____m.	____, 19__	___m.

I hereby certify that each and every statement set forth above is true to the best of my knowledge and belief.

Signature of official superior: _____

Title _____

Note—It is very important that above certificate be furnished, but if for any cause this can not be done, give full explanation below:

_____

§ 390. Form of certificate of disability. (5)[4]

_____, 191__

The Secretary of_____(Department in which employed)____
Washington, D. C.

Sir—I hereby certify that I was absent from duty for a period of _____days, from_____, 191__, to_____, 191__, both dates inclusive, and that during all this time I was unable to resume work by reason of an injury received in the course of my employment, on_____, 191__, on account of which injury a claim for compensation under the act of May 30, 1908, was approved for payment by the Secretary of Commerce and Labor on _____, 191__[5]

Claimant's signature: _____

Approved:

Name: _____

Title: _____

§ 391. Form of request for medical examination to secure continuance of compensation beyond six months. (6)[6]

_____, 191__

The Secretary of Commerce and Labor,
Washington, D. C.

Sir—I hereby request that provision be made for an examination of my physical condition in order to determine my right to the continued receipt of compensation after_____, 191__, in accordance with the provisions of Sec. 5 of the Act of May 30, 1908.

Name: _____

1. Department_____ 2. Bureau or Office_____

[4]To be filed with the disbursing officer by the employé whose claim for compensation under the act of May 30, 1908, has been approved.

[5] If the claimant's superior office is not satisfied that the claimant was unable to resume work for any period for which compensation is claimed, he may require that the claimant submit to him a certificate from a duly authorized medical practitioner showing disability during the period for which compensation is claimed.

[6] This form should be forwarded to the Secretary of Commerce and Labor through official channels.

3. Plant in which injured person was employed_____(Shop, yard, dock, etc.)_____
4. Location of plant (postoffice address)_____
5. Name_____
6. Address_____
7. Occupation at time of accident_____
8. Date of accident_____

§ 392. **Form of report of discontinuance of compensation payments. (7)**[7]

Department of_____
Bureau or Office_____
_____, 191__

The Secretary of Commerce and Labor,
Washington, D. C.

Sir—I hereby report that the payment of compensation on account of injury to the person named and described below has been discontinued on account of_____(Recovery of claimant, expiration of period, or death of beneficiary.)_____

Signature of person making report: _____
Title: _____

1. Full name of injured employé_____
2. Date of receipt of injury_____
3. Compensation was paid for period beginning_____, 191__, to_____, 191__, inclusive.
4. Working time for which compensation payments have been made_____days.
5. Total amount of compensation paid $____(If subsistence or commutation of subsistence was furnished during disability, the value or amount should be included.)_____
6. Remarks_____

§ 393. **Procedure in case of death.**—When an artisan or laborer who is included within the provisions of this act dies as a result of accidental injury received in the course of his employment, claims must be made by such of his dependents under the act, if any, as desire to claim the compensation provided. This claim, accompanied by a physician's certificate, if a physician was employed, and a certificate of the official superior of the

[7] To be submitted to the Secretary of Commerce and Labor through official channels by superior officers in all cases where payments of compensation under the act of May 30, 1908, have been discontinued.

deceased, all on the forms provided, should be promptly filed with the official superior for transmission through the regular channels to the secretary of commerce and labor.

§ 394. Form of claim for compensation on account of death. (8)[9]

The Secretary of Commerce and Labor,

Washington, D. C.

Sir—Claim for compensation under the provisions of the act of May 30, 1908, is hereby made by the undersigned, which claim is based upon the facts herein stated.

1. Full name of deceased employé on account of whose death claim is made: _____
2. Age_____ 3. Sex_____ 4. Occupation_____
5. Date of injury_____, 191__ 6. Date of death_____, 191__
7. Did deceased leave a widow?_____; if so, give name and address: Name_____; Address_____
8. Did deceased leave any children under sixteen years of age?____ If so, give name and date of birth of each:

Name.	Date of birth.
_____	_____
_____	_____

9. Is the father of deceased living?_____; if so, give name and address:
   (a) Name: _____
   (b) Address: _____
   (c) Did deceased contribute to his support within the past year? _____
10. Is the mother of deceased living?_____; if so, give name and address:
   (a) Name: _____
   (b) Address: _____
   (c) Did deceased contribute to her support within the past year? _____

[9] Section 4 of the act of May 30, 1908, requires that claims for compensation on account of death shall be filed with the Secretary of Commerce and Labor within ninety days after such death. Those who are entitled to compensation under the law are: Wife, children under sixteen years of age, and dependent parents. Oaths of claimants residing in foreign countries should be made before a United States consular officer or secretary of legation; or, if before a local officer, a certificate of such United States consular officer or secretary of legation showing the authority of the local officer to administer oaths should be annexed.

AFFIDAVIT OF CLAIMANTS.

(It is understood that no claim for compensation is made except by the persons whose names are signed thereto. Leave no space for names blank; the word "none" should be written wherever there is no person of the class indicated.)

____(I or we)____hereby certify that each and every statement set forth above is true to the best of_____(my or our)_____knowledge and belief.

Signatures:

Widow: _____

Person signing on behalf of children:

_____

Status or relationship: ____(Parent, grandparent, guardian, etc.)

Father: _____

Mother: _____

_____ }
_____ } ss.

Subscribed and sworn to before me this_____day of_____, 191__

Signature of official administering oath: _____

Title: _____

(Seal.) In and for_____

AFFIDAVIT OF DEPENDENT PARENTS.

(To be executed in addition to the foregoing affidavit in case the parents, or either of them, make claim for compensation based upon their dependence upon deceased.)

1. Relation of deceased to—
   (a) Father____(Son, stepson, adopted son.)____: (b) Mother ____(Son, stepson, adopted son.) _____
2. Age of: (a) Father_____; (b) Mother_____
3. Amount of support received from deceased during the twelve months prior to his death, $_____. How often and in what amounts were the payments made?_____
4. Total income of claimants from all other sources during this period? _____
5. Value and character of property owned by claimants, $_____
6. Did deceased live with parents during part year? State particulars: _____
7. Other facts showing dependence: _____

Signatures:

Father: _____

Mother _____

_____ }ss.
_____ }

Subscribed and sworn to before me this_____day of_____, 191__

Signature of official administering oath: _____
(Seal.) Title: _____
In and for_____

PHYSICIAN'S CERTIFICATE.

1. Name of deceased employé: _____
2. Dates on which employé was attended by certifying physician _____
3. Date of employé's death_____, 191__
4. Direct cause of death_____
5. Contributory cause of death_____
6. Was history of accident given in this case? If so, state it briefly: _____
7. In your opinion was the death of the employé due to such accident? _____

I hereby certify that the answers to the above questions are true to the best of my knowledge and belief.

Date of making certificate: _____, 191__
Name of certifying physician: _____
Address: _____

Note—It is very important that above certificate be furnished, but if for any cause it can not be secured, give full explanation below and submit such other proof of death as may be obtainable.

CERTIFICATE OF OFFICIAL SUPERIOR.

Department: _____; Location: _____
Service: _____; Date_____, 191__

1. Name of deceased employé: _____
2. Occupation_____; 3. Date of injury_____, 191__
4. Date of death_____, 191__
5. Description of accident: _____
6. Was the injury received in the course of the employment?____; If not, give full particulars:_____
7. Was the injury due to the negligence or misconduct of the employé?_____; If so, give full description of such negligence or misconduct: _____
8. Was the death due to the accident described above?_____
9. Date on which claim was filed by claimants,_____, 191__
   With whom was claim filed?_____

I hereby certify that the answers to the above questions are true to the best of my knowledge and belief.

Signature of official superior: _____

Title: _____

Note—It is very important that above certificate be furnished, but if for any cause it can not be secured, give full explanation below:

_____

§ 395. Form of notice of right to compensation. (9)

By an act of Congress of May 30, 1908, as amended by later enactments, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals or navy yards, or in the construction of river and harbor or fortification work, or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, any employé under the Isthmian Canal Commission, and any artisan, laborer, or other employé engaged in any hazardous work under the Bureau of Mines or the Forestry Service of the United States, shall, if injured in the course of such employment, be entitled to receive during disability the same pay as if he had continued to be employed. This payment may not extend beyond one year from the beginning of the disability.

To give a right to compensation, the disability must continue for more than fifteen days, and must not be due to the negligence or misconduct of the injured employé.

If the injury results in death, the widow, child or children under sixteen years of age, or dependent parents of the deceased employé have the same right to compensation that the employé would have had if he had lived. In case of death, claims must be filed within ninety days after the death takes place, except for employés under the Isthmian Canal Commission.

All questions of negligence or misconduct shall be determined by the Secretary of Commerce and Labor, who is charged with the administration of the law, except in its application to employés of the Isthmian Canal Commission.

Where an employé is entitled to compensation under this act, no sick or annual leave should be taken instead of such compensation.

BLANK FORMS FOR FILING CLAIMS.

Blank forms for filing claims are furnished by the Secretary of Commerce and Labor, and may be obtained from the persons who have supervision over the employés in the branches of service covered by the act. These are to be furnished to all persons believing themselves entitled to compensaton under the act.

PROCEDURE IN CASE OF DISABILITY.

When an artisan or laborer believes himself entitled to com-

pensation under this act, he must make out a claim for compensation, accompanied by certificates from a duly qualified physician and from his official superior, on the forms provided.

The claim and certificates should be promptly filed with the official superior of the claimant, and that official will then forward them through the regular channels to the Secretary of Commerce and Labor.

If the claim is approved by the Secretary of Commerce and Labor, the injured employé will be entiitled to payment of compensation during disability, but not exceeding one year, the same as if he had continued to be employed.

In order to secure this compensation the injured employé on each pay day must file with the disbursing officer a certificate that he is still unable to resume work, which certificate must be approved by his official superior, and, if required, by a physician cognizant of the claimant's physical condition.

PROCEDURE IN CASE OF DEATH.

When an artisan or laborer who is included within the provisions of this act dies as a result of accidental injury received in the course of his employment, claims must be made by such of his dependents under the act, if any, as desire to claim the compensation provided. This claim, accompanied by a physician's certificate, if a physician was employed, and a certificate of the official superior of the deceased, all on the forms provided, should be promptly filed with the official superior for transmission through the regular channels to the Secretary of Commerce and Labor.

[This card should be kept posted permanently (preferably under glass) in a conspicuous place in each establishment or office.]

§ 396. **Construction of the Federal Acts.**—The acts which provide compensation for artisans and laborers injured in the service of the United States contain no provision for a court trial of cases arising thereunder. All matters connected with the application and administration of the acts are under the exclusive direction of the secretary of commerce and labor, who is advised by opinions of the attorney general of the United States on questions of construction.

§ 397. **"Injury and "accident" defined.**—The Attorney General of the United States in his opinion rendered May 17, 1909, in the application of Alfred A. Clark for compensation under the Federal Compensation Act finds that:

"A plate printer in the Bureau of Engraving and Printing whose right wrist was sprained in the course of his employment, and without misconduct or negligence on his part, which injury was complicated by a rupture of the synovial sac surrounding the ligaments leading from the back part of the forearm to the fingers, the injury continuing for more than fifteen days—suffered "an injury" within the meaning of the act of May 30, 1908 (35 Stat. 556), on account of which compensation may be paid.

The word "injury" in section 4 of that act is employed comprehensively, to embrace all the cases of incapacity to continue the work of employment, unless the injury is due to the negligence or misconduct of the employé injured, and includes all cases where, as a result of the employé's occupation, he, without any negligence or misconduct, becomes unable to carry on his work, and the condition continues for more than fifteen days.

The word "accident" is employed in that section to denote the happening of some unusual event producing death or injury which results in incapacity for work, lasting more than fifteen days.

An employé may, within the language of that statute, be injured in the course of his employment without having suffered a definite accident.[10]

In arriving at these conclusions the attorney general argues that "the statute quite consistently provides for the cases of injuries in the course of the employment and accidents resulting in death or otherwise. The word 'injury' is employed comprehensively to embrace all the cases of incapacity to continue the work of employment unless the injury is due to the negligence or misconduct of the employé injured—and including all cases where as a result of the employé's occupation he, without any negligence or misconduct, becomes unable to carry on his work and this condition continues for

more than fifteen days. The word 'accident' is employed to denote the happening of some unusual event, producing death or injury which results in incapacity for work, lasting more than fifteen days. That is to say, within the language of the statute an employé may be injured in the course of his employment without having suffered a definite accident. * * * The modern tendency of courts has been to apply the term 'accident' to include all injuries arising out of the pursuit of claimant's employment which, without his own fault, incapacitate him from carrying on his labor."

He adopts the reasoning of the House of Lords in the case Fenton, pauper, v. Thorley,[11] arising under the British Compensation Act.

"There is, however, a recent decision of the court of session in Scotland, to which I would like to call your lordships' attention, and in which I agree entirely. It is the case of 'Stewart v. Wilson's and Clyde Coal Company (Limited)' (5 Fraser 120). A miner strained his back in replacing a derailed coal hutch. The question arose, Was that an accident? All the learned judges held that it was. True, two of the learned judges expressed an opinion that it was 'fortuitous,' but they could not have used that expression in the sense in which it was used in Hensey v. White. What the miner did in replacing the hutch he certainly did deliberately and in the ordinary course of his work. There was nothing hazardous about it. Lord McLaren observed that it was impossible to limit the scope of the statute. He considered that 'if a workman in the reasonable performance of his duties sustains a physiological injury as the result of the work he is engaged in * * * this is accidental injury in the sense of the statute.' Lord Kinnear observed that the injury was 'not intentional,' and that 'it was unforeseen.' 'It arose,' he said, 'from some causes which are not definitely ascertained,

[11] 89 L. T. 314 (1903) A. C. 443.

except that the appellant was lifting hutches which were too heavy for him. If,' he added, 'such an occurrence as this can not be described in ordinary language as an accident, I do not know how otherwise to describe it.' * * *

"Lord Shand, in the course of a judgment, which was read by Lord Macnaghten, said: 'I shall only add that concurring as I fully do in holding that the word "accident" in the statute is to be taken in its popular and ordinary sense, I think it denotes or includes any unexpected personal injury resulting to the workman in the course of his employment from any unlooked for mishap or occurrence.' "

§ 398. "Injury" and "Disease without injury"—Disease contracted in the course of employment.

John Sheeran was an artisan or laborer employed by the United States in the construction of river and harbor work. Immediately prior to becoming incapacitated Mr. Sheeran was employed at St. Marys Falls canal, Sault Ste. Marie, Mich., in cleaning a building, attending to the heating plant, and removing ashes. In the course of his employment, while removing ashes from the furnace room to a pile outside the building, he contracted a severe cold, which resulted in pneumonia, and was incapacitated for duty for a period lasting more than fifteen days. Mr. Sheeran's disability was in no way due to negligence or misconduct on his part. The attorney general called to pass upon his application for compensation held that an artisan or laborer employed by the United States in the construction of river and harbor work, who contracted a severe cold in the course of his employment resulting in pneumonia and which incapacitated him for duty for a period lasting more than fifteen days, is not entitled to compensation under the act of May 30, 1908 (35 Stat. 556).

The word "injury," as used in above statute, is in no

sense suggestive of disease, nor has it ordinarily any such significance.[12]

It is to be noted that this is the first claim squarely presenting the question whether the word "injury," as used in the Federal Compensation Act, is broad enough to include diseases contracted in the course of employment, and directly attributable to conditions of employment, or whether it should be limited to include only such cases of incapacity as may result from some wound or hurt received in the course of employment.

In an early opinion on the subject the attorney general gave a somewhat unrestricted construction of the word "injury." He said: "In other words, the statute quite consistently provides for the cases of injuries in the course of the employment and accidents resulting in death or otherwise. The word 'injury' is employed comprehensively to embrace all the cases of incapacity to continue the work of employment unless the injury is due to the negligence or misconduct of the employé injured—and including all cases where as a result of the employé's occupation he, without any negligence or misconduct, becomes unable to carry on his work, and this condition continues for more than fifteen days. The word 'accident' is employed to denote the happening of some unusual event, producing death or injury which results in incapacity for work, lasting more than fifteen days. That is to say, within the language of the statute an employé may be injured in the course of his employment without having suffered a definite accident."

In the Sheeran case the word was limited. In speaking of the language above quoted, he said: "That opinion, however, was not intended to create the impression that the statute in question covered diseases contracted in the course of employment. The language of the opinion is, perhaps, broader than it should be, in the light of the committee report on the bill above quoted,

[12]Opinion Atty.-Gen. U. S. April 25, 1910.

which indicates that only injuries of an accidental nature were in mind. As, however, the statute is remedial, it should be generously construed, and so construed it might well be held to include injuries of the character there referred to, although, strictly speaking, no definite accident had occurred which gave rise to the injury. The word 'injury,' however, as used in the statute, is in no sense suggestive of disease, nor has it ordinarily any such signification."

§ 399. "In the course of such employment" defined. Attorney General Wickersham has rendered an opinion construing the term "Injured in the course of such employment." The question arose in the case of the claim of H. G. Simpson, who was employed as a laborer on the river and harbor work at Lock No. 5 of the Kentucky river, and who was killed August 22, 1911.

The facts of this case are as follows:

"Decedent, who was off duty at that hour, went up on the bin to talk with the man working there about going home on the following Sunday. As he was in the act of leaving the bin a box of gravel was raised for the purpose of being emptied by the man to whom decedent had been talking. Instead of passing on and allowing the man on duty to empty the box, claimant took hold of it for that purpose, and in so doing he fell overboard and was drowned. Said the attorney general: 'The question therefore arises whether the death occurred in the course of the employment, and the answer must be reached from the facts in the case as above stated.'

"Simpson, it appears, was unmarried, and compensation is claimed on account of his dependent parents.

"As I have said in former opinions, the act of May 30, 1908, is remedial and should be generously construed (28 Op. 254, 258) and the 'purpose of the law was not to set in motion an interminable series of technical in-

quiries, such as would puzzle the minds of learned and profound judges.' (27 Op. 346, 354). Under the broadest possible construction of the act, however, I am unable to hold that this case comes within it. Compensation is only authorized when a person employed by the United States as an artisan or laborer on the classes of work specified is injured 'in the course of such employment,' and it is expressly provided 'that no compensation shall be paid under this act where the injury is due to negligence or misconduct of the employé injured.' The provision 'that no compensation shall be paid under this act where the injury is due to negligence or misconduct of the employé injured' forbids such a construction of the statute as will involve the government in liability for injuries resulting from such voluntary and unnecessary acts of persons in its employ. I reach this conclusion independent of the fact that the decision under the English compensation acts, as well as those relating to the common-law liability of the master for injuries to his servant, are also uniformly to the effect that under such circumstances the injury is not to be deemed to have arisen in the course of the workmen's employment, and no liability arises therefor."[14]

[14] Authorities which sustain this construction in the administration of the British Workmen's Compensation Act are cited as follows: Reed v. Great Western Railway Company, 99 L. T. 781; Phillips v. Williams, 4 Butterworth's Workmen's Comp. Cas. 143; Ellsworth v. Metheney, 104 Fed. 119, 121, 44 C. C. A. 484; Dresser's Employers' Liability, vol. 1, p. 104; McDaniel v. Highland Avenue and Belt R. R. Co., 90 Ala. 64, 8 So. 41; Knox v. Pioneer Coal Co., 90 Tenn. 546, 18 S. W. 255; McCue v. National Starch Mfg. Co., 142 N. Y. 106, 36 N. E. 809.

CHAPTER XXV.

MATTERS COMMON TO THE VARIOUS AMERICAN STATUTES.

Sec.
400. Introduction.
401. Defenses which are abolished where the employer does not accept the provisions of the Compensation Act.
402. Various schemes of administration.
403. The employments covered by the Acts.
404. Who are "employers".
405. Liability of principal—Subrogation.
406. The employés covered by the acts.
407. Notice required by employer, employé and state official.
408. Injuries covered by the several acts.
409. Report of accident by employer.
410. Notice of injuries by employé.
411. Report of accident and injuries.
412. Compensation provided by the acts in the event of death and funeral expenses.
413. Who are dependents.
414. When compensation begins in case of disability.
415. Compensation for total disability.
416. Compensation paid on account of partial disability.
417. Medical and surgical aid.
418. Who are employés.
419. The manner in which compensation is paid.
420. Commutation of awards and claims.
421. Serious, or intentional and wilful misconduct—Intoxication and drunkenness.
422. Election of remedies.
423. Alternative schemes of compensation permitted.
424. Physical examination.
425. Appeals.
426. Preference of claims for compensation.
427. Assignability and transference of rights of compensation under the acts.
428. Exemption of employers from provisions of act by contracts.
429. Penalties for refusing to comply with provisions of the acts.
430. Attorney's fees.
431. Expenses of administration of acts.

§ 400. **Introduction.**—In the preceding chapters, the treatment of the subject has been confined to the separate compensation acts. It is the purpose of this

chapter to treat all of these acts as a body and consider matters and constructions common to them all.

§ 401. Defenses which are abolished where the employer does not accept the provisions of the Compensation Act.—In California,[1] Nevada,[2] and Washington[3] the defenses of assumed risk and fellow-servant are abolished, and the rule of comparative negligence is substituted for the former defense of contributory negligence. The Illinois[4] and Kansas[5] acts abolish the three defenses of assumed risk, fellow-servant and contributory negligence, but the acts provide that contributory negligence may be considered by the jury in reducing the amount of damages which may be awarded under these acts. In Massachusetts,[6] Michigan,[7] Ohio,[8] New Jersey[9] and Rhode Island,[10] all of the so-called common-law defenses of assumed risk, fellow-servant and contributory negligence are abolished outright. In New Hampshire[11] and New York[12] only the two defenses of assumed risk and fellow-servant are abolished. The Wisconsin Act[13] abolished the defenses of assumed risk

[1] California Acts, § 1; see ante § 263, this volume.

[2] Nevada Act, § 1 (1) and (2); see ante § 290, this volume.

[3] Washington Act, § 1; see ante § 124, this volume.

[4] Illinois Act, § 1 (1), (2) and (3); see ante § 326, this volume.

[5] Kansas Act, § 1 (a) and (b) and § 2; see ante § 292, this volume.

[6] Massachusetts Act, Part I, § 1 (1), (2), (3) and § 2; see ante § 303, this volume.

[7] Michigan Act, Part I, § 1 (a), (b), (c) and § 2; see ante § 355, this volume.

[8] Ohio Act, § 21 (1); see ante § 171, this volume.

[9] New Jersey Act, § I, paragraphs 1, 2, 3, 4 and 5; see ante § 255, this volume.

[10] Rhode Island Act, § 1 (a), (b), (c); §§ 2, 3 and 4; see ante § 367, this volume.

[11] New Hampshire Act, §§ 2 and 3; see ante § 296, this volume.

[12] New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 202.

[13] Wisconsin Act, § 2394 (1) and (2); see ante § 227, this volume.

and the defense of the fellow-servant where four or more persons are employed in a common employment.

§ 402. Various schemes of administration.—The administration of the California[14] and Michigan[15] Acts is under the direction of an Industrial Accident Board. The findings of the California board are subject to revision by the Supreme Court and those of the Michigan board as regard questions of law are subject to the review of the Supreme Court. The Illinois[16] Act provides for its administration through the creation of local boards of arbitration, the findings of which are subject to appeal to the courts and to a right of trial by jury at the election of any party in interest. The Kansas[17] Act provides for a scheme of arbitration, subject to court review. The Massachusetts[18] law provides for a scheme of administration by the creation of an Industrial Accident Board, the findings of which are subject to review by the State Supreme Court. The Nevada[19] law provides for the creation of local boards of arbitration. Findings of these boards are subject to the review of the courts which have jurisdiction in the localities where the boards are appointed. The New Hampshire[20] law provides for a limited scheme of administration under the direction of the State Commissioner of Labor, whose rulings and findings are subject to review by the courts. Under the New Jersey[21] Act the entire

[14] California Act, §§ 12, 13, 14, 15 and 16; see ante § 263, this volume.

[15] Michigan Act, Part V; see ante § 355 this volume.

[16] Illinois Act, §§ 9 and 10; see ante § 326, this volume.

[17] Kansas Act, §§ 22-39; see ante § 292, this volume.

[18] Massachusetts Act, Part III; see ante § 303, this volume.

[19] Nevada Act, §§ 8, 9, 10, 11, 12, 13 and 14; see ante § 290, this volume.

[20] New Hampshire Act, §§ 5, 7, 8, 9 and 12; see ante § 296, this volume.

[21] New Jersey Act, § II, paragraphs 15, 16, 17, 18, 19, 20 and 21; see ante, § 255, this volume.

administration of the law is under the supervision of the court of common pleas. The New York[22] Act provides both for a scheme of arbitration and the determination of awards by proceedings in the courts. The Ohio[23] law rests the entire administration of the law in the State Liability Board of Awards of three members. This board is instructed to classify all employments in which five or more workmen or operatives are regularly employed, according to their degree of hazard, and to determine the risks of such classes, based upon the amount of pay-roll and number of employés in each of said classes. The board is further clothed with authority to determine the procedure in connection with the making of awards and the payment and revision of the same not inconsistent with the Act. The Rhode Island[24] law places the administration of the act under the supervision of the Supreme Court. The Washington[25] Act provides for its administration through an Industrial Insurance Commission of three commissioners, which is charged with the entire control of the procedure and manner of determination of compensations provided for in the law. The Wisconsin[26] Act invests not only the administration of the act in an Industrial Commission of three members, the findings of which are subject to the review of the court, but provides that the same commission shall also administer the factory inspection laws of the State.

[22] New York Act, §§ 201, 202a, 203, 205, 208, 210-212 of Laws 1910, ch. 352, Article 14.

[23] Ohio Act, §§ 1, 4-20; see ante § 171, this volume.

[24] Rhode Island Act, Articles III and IV; see ante § 367, this volume.

[25] Washington Act, §§ 21-24, 26; see ante § 124, this volume.

[26] Wisconsin Act, § 2394-13 to § 2394-29; see ante § 227, this volume.

§ 403. The employments covered by the Acts.—The Acts of California,[27] Michigan,[28] New Jersey[29] and Wisconsin[30] cover all employments except those which are casual. The Acts of Illinois,[31] Kansas,[32] Nevada,[33] New Hampshire[34] and Washington[35] cover and enumerate lists of dangerous (or extra hazardous) employments. The Massachusetts[35a] Act covers all employments excepting domestic service and farm labor. The New York[36] Act covers all employments excepting railroad service. The Rhode Island[37] Act covers all employments except domestic service, agriculture, and employments in which five or less workmen are regularly employed. The Ohio[38] law covers all employments in which five or more workmen or operatives are regularly employed.

§ 404. Who are "employers."—The term "employer" is used in compensation acts in a broader sense than is usually found in earlier statutes. The Rhode Island Workmen's Compensation Act defines the term as follows: "'Employer' includes any person, co-partnership, corporation or voluntary association, and the

[27] California Act, §§ 4 and 6 (1) and (2); see ante § 263, this volume.

[28] Michigan Act, Part I, § 5, paragraphs 1 and 2 and § 7, paragraphs 1 and 2; see ante § 355, this volume.

[29] New Jersey Act, § II, paragraph 9; see ante § 255, this volume.

[30] Wisconsin Act, §§ 2394-5, 1 and 2, and § 2394-7, 1 and 2; see ante § 227, this volume.

[31] Illinois Act, § 2; see ante § 326, this volume.

[32] Kansas Act, § 6; see ante § 292, this volume.

[33] Nevada Act, § 3; see ante § 290, this volume.

[34] New Hampshire Act, § 1; see ante § 296, this volume.

[35] Washington Act, §§ 3 and 4; see ante § 124, this volume.

[35a] Massachusetts Act, Part I, § 2; see ante § 303, this volume.

[36] New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 205.

[37] Rhode Island Act, Article I, §§ 2 and 3; see ante § 367, this volume.

[38] Ohio Act, §§ 20-1 and 21-1; see ante § 171, this volume.

legal representative of a deceased person."[39] This term is specifically defined in most of the acts, references to which will be found in the foot note.[40]

§ 405. Liability of principal—Subrogation.—Contractor to pay compensation to employés of subcontractor.

Under certain circumstances other than the direct employer are charged with the liability of paying the compensations specified in the several acts. For example the Illinois Act provides:

§ 20. Any person, firm or corporation who undertakes to do or contracts with others to do, or have done for him, them or it, any work embraced in section 2 of this act, requiring such dangerous employment of employés in, or about premises where he, they or it, as principal or principals, contract to do such work or any part thereof, and does not require that the compensation provided for in this act shall be insured to the employé or beneficiary by any such person, firm or corporation undertaking to do such work and any such person, firm or corporation who creates or carries into operation any fraudulent scheme, artifice or device to enable him, them or it to execute such work without such person, firm or corporation being responsible to the employé or beneficiaries entitled to such compensation under the pro-

[39] Rhode Island Act, Article V, § 1 (a); see ante § 367, this volume.

[40] California Act, § 4; see ante § 263, this volume. Illinois Act, §§ 2 and 20; see ante § 326, this volume. Kansas Act, § 9 (h); see ante § 292, this volume. New Hampshire Act, Employer is not defined; see ante § 296, this volume. Nevada Act, § 3 (i); see ante § 290, this volume. New Jersey Act, Employer is not defined; see ante, § 255, this volume. New York Act, Employer is defined by exclusion, § 205, N. Y. Laws 1910, ch. 352, Article 14. Massachusetts Act, Part V, § 2; see ante, § 303, this volume. Michigan Act, Part I, § 5; see ante § 355, this volume. Ohio Act, Employer is not specially defined; see ante § 171, this volume. Washington Act, § 3; see ante § 124, this volume. Wisconsin Act, § 2394-5; see ante § 227, this volume.

visions of this act, such person, firm or corporation shall be included in the term "employer" and with the immediate employer shall be jointly and severally liable to pay the compensation herein provided for, and be subject to all the provisions of this act. The provisions of the other acts relating to this subject are found in the foot note.[41]

§ 406. **The employés covered by the acts.**—The California,[42] Massachusetts,[43] Nevada,[44] New Jersey,[45] Ohio,[46] Washington,[47] Michigan[48] and Wisconsin[49] Acts cover all employés engaged in the employments affected by the law. The Illinois[50] Act covers all employés who are exposed to the necessary hazard of the business conducted by their employer. The Kansas[51] Act covers all employés who are engaged regularly in their employers' trade or business. The New Hampshire[52] law covers all employés who are engaged in manual or mechanical labor. The New York[53] Act covers all employés ex-

41 California Act has no such provision on the subject. Kansas Act, § 4; see ante § 292, this volume. Massachusetts Act, Part III, § 17; see ante § 303, this volume. Michigan Act has no provision on subject; see ante § 355, this volume. Nevada Act, § 10; see ante § 290, this volume. New Hampshire Act has no provision on subject. New Jersey Act, § I, par. 3; see ante § 255, this volume. New York Act contains no such provision. Ohio Act contains no provision on subject. Rhode Island Act contains no provision on subject. Washington Act, § 17; see ante § 124, this volume. Wisconsin Act has no provision on subject.

42 California Act, § 7; see ante § 263, this volume.

43 Massachusetts Act, Part V, § 2; see ante § 303, this volume.

44 Nevada Act, §§ 2 and 3; see ante § 290, this volume.

45 New Jersey Act, § I, par. 1; see ante § 255, this volume.

46 Ohio Act, § 20-1, and note; see ante § 171, this volume.

47 Washington Act, § 3; see ante § 124, this volume.

48 Michigan Act, Part I, § 7; see ante § 355, this volume.

49 Wisconsin Act, § 2394-7; see ante § 227, this volume.

50 Illinois Act, §§ 21 and 22; see ante § 326, this volume.

51 Kansas Act, §§ 6 and 9 (i); see ante § 292, this volume.

52 New Hampshire Act, § 1; see ante § 296, this volume.

53 New York Act, N. Y. Laws 1910, ch. 352, article 14, § 205.

cept those employed by railroads, foreign and domestic. The Rhode Island[41] law covers all employés whose employment is not casual or whose remuneration does not exceed eighteen hundred dollars ($1,800.00) per annum.

§ 407. Notice required by employer, employé and state official.—The formal procedure respecting the notice required to be given by the employer, employés or the state accident boards or industrial commissions charged with the administration of the Washington,[42] Ohio,[43] Wisconsin,[44] California,[45] Massachusetts,[46] and Michigan[47] Acts has been quite fully developed for each of these states and is given in the section on formal procedure of the several chapters devoted to the discussion of these acts.

Under the Rhode Island[48] Act an employer who accepts its provisions files a written statement to that effect with the commissioner of industrial statistics and gives notice thereof to his employés by posting and keeping continuously posted copies of such statement in conspicuous places about the place, where his workmen are employed. In case such an employer wishes to withdraw his election to be bound by the provisions of the act he shall file a written notice to that effect with said commissioner at least sixty days prior to the expiration of the first or any succeeding year following the filing of his original acceptance and shall give again a reasonable notice to his workmen of his withdrawal as above provided.

41 Rhode Island Act, Art. V, § 1 (b); see ante § 367, this volume.

42 § 132.

43 §§175, 179, 183, 184.

44 § 237.

45 §§267, 273.

46 §§ 312, 314, 315, 316, 318, 319, 322.

47 Michigan Act, Part I, §§ 6 and 7; Part II, §§ 16-19; see ante § 355, this volume.

48 Rhode Island Act, Art. I, §§ 5, 6, Art. II, §§ 17-20; see ante § 367, this volume.

An employé of an employer who has perfected his acceptance of the provision of the act shall be held to have waived his right of action at common law to recover damages for personal injuries unless he shall have given his employer notice in writing at the time of his contract of hire that he claimed such right and within ten days thereafter have filed a copy of the same with said commissioner, or if the contract of hire was entered into prior to the election of the employer then such employé to be able to claim said right is required to file said notice with said commissioner within ten days after his employer has notified him of his employer's election.

Such a waiver may be nollied by such an employé by filing a notice in writing with said commissioner within sixty days prior to the expiration of the first or any succeeding year after the said waiver began to run that he desires his said right of action at common law and within ten days thereafter shall give notice thereof to his employer.

Similar notices are required of a guardian or parent of a minor sui juris for the purpose of the act both to preserve the minor's right of action at law and to waive that right after having perfected it. The notice of waiver by such an employé or his parent or guardian, in case he is a minor, shall take effect five days after its delivery to the employer.

To recover compensation on account of an injury to an employé, he must give the employer a notice within thirty days after the happening thereof and must file his claim within one year after the occurrence of the same, or, in case of death, physical or mental incapacity, his legal representatives are required to give the same notice and file their claim within one year after death or after the removal of such physical and mental disability. Such notice shall be in writing, describe the nature, time, place and cause of the injury, and name and address of the injured and shall be signed by him in

person or in case of his death by dependent person or his legal representative. The notice shall be served upon the employer, if the employer is a corporation, upon any officer or agent upon whom process may be served by delivering the same to the person to be served, or by leaving it at his residence or his or its place of business or by sending the same by registered mail addressed to the person or corporation to be served at his or its last known residence or place of business. Such notice shall not be invalidated by reason of inaccuracy in the description of the injury or name and address of the injured unless it was intended to mislead the employer and he was so misled thereby. Want of notice shall not be a bar to such a claim if it be shown that the employer or his agent had knowledge of the injury or that it was due to accident, mistake or unforeseen cause.

Notice of filing of petition must be served on respondent within four days of filing the same.

Within ten days after the filing of the petition the respondent must file his answer and a copy thereof for the petitioner.

The claim for compensation is now ready for hearing and the judgment rendered thereon by the Superior Court is subject to the proceedings provided for review and appeals. Such notices are provided for in the acts of Nevada,[49] Kansas,[50] Illinois,[51] New Hampshire,[52] New Jersey[53] and New York.[54]

[49] Nevada Act, §§ 4 and 7; see ante § 290, this volume.

[50] Kansas Act, §§ 10, 14, 15, 20, 22, 24 (a), 25, 36, 44, 45; see ante § 292, this volume.

[51] Illinois Act, § 1, par. 3-a, b, c, § 14; see ante § 326, this volume.

[52] New Hampshire Act, §§ 3, 4, 5, 7, 9; see ante § 296, this volume.

[53] New Jersey Act, § I, par. 6, § II, pars. 9, 10, 15, 16 and 20; see ante, § 255, this volume.

[54] New York Act, N. Y. Laws, 1910, ch. 352, article 14, §§ 201, 206 and 210.

§ 408. Injuries covered by the several acts.—The acts of California[55] and Wisconsin[56] provide for the compensation of all injuries growing out of the employment, unless the injury was the result of the wilful misconduct of the injured employé. The Illinois[57] and Washington[58] Acts provide for the compensation of all injuries growing out of the employment unless the injury resulted from the deliberate intention of the injured employé to cause the injury. The Kansas[59] Act provides for the compensation of all injuries growing out of the employment, unless the injury is caused by the deliberate intention of the injured workman, or his wilful failure to use safety devices provided by law, or on account of his intoxication. The Massachusetts[60] and New York[61] Acts provide for the compensation of all injuries growing out of the employment, unless the injury was due to the serious and wilful misconduct of the injured workman. However, the Massachusetts law further provides that in case the injury was due to the serious and wilful misconduct of the employer, the compensation shall be double. The Michigan[62] law provides for the compensation of all injuries growing out of the employment unless the injury is the result of the intentional and the wilful misconduct of the injured workmen. The New Hampshire[63] law provides for the compensation of all injuries growing out of the employment unless the employé's injury is caused by his intoxication, by his violation of law, or by reason of his serious or wilful misconduct. The act further provides

55 California Act, § 3 (3); see ante § 263, this volume.

56 Wisconsin Act, § 2394-4, 3; see ante § 227, this volume.

57 Illinois Act, § 8; see ante § 326, this volume.

58 Washington Act, § 6; see ante § 124, this volume.

59 Kansas Act, § 1 (b); see ante § 292, this volume.

60 Massachusetts Act, Part II, §§ 2 and 3; see ante § 303, this volume.

61 New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 206.

62 Michigan Act, Part II, §§ 1, 2, 3; see ante § 355, this volume.

63 New Hampshire Act, § 3; see ante § 296, this volume.

that, in case the injury was due to the wilful failure of the employer to comply with any statute or order made under authority of law, such employer shall be liable for all injuries at the election of the workman. The New Jersey[64] and Rhode Island[65] Acts provide for the compensation of all injuries growing. out of the employment, unless the injury was intentionally self-inflicted by the employé or due to his intoxication. The Nevada[66] law provides for the compensation of all injuries growing out of the employment, excepting cases in which the negligence of the injured employé contributed to the cause of the injury, in which case the benefits are reduced to the extent that the jury may find the negligence of the injured workman contributed to the same. The Ohio[67] law provides for the compensation of all injuries growing out of the employment, unless the injured employé purposely caused the same.

§ 409. Report of accident by employer.—The statutes of substantially all of the states require of the employer that he report in writing all accidents occurring in his establishment to the commissioner, board, bureau of labor or a designated state official. The duty to make the report is perhaps most clearly set out by the following provision of the Illinois[68] Act:

It shall also be the duty of every such employer to report between the 15th and the 25th of each month to the Secretary of the State Bureau of Labor Statistics all accidents or injuries for which compensation has been paid under this Act, which accidents or injuries entail a loss to the employé of more than one week's time, and in case the injury results in permanent dis-

[64] New Jersey Act, § I, par. 1; § II, par. 7; see ante § 255, this volume.

[65] Rhode Island Act, Article II, § 2; see ante § 367, this volume.

[66] Nevada Act, § 1; see ante § 290, this volume.

[67] Ohio Act, § 21; see ante § 171 this volume.

[68] Illinois Act, § 19; see ante § 326, this volume.

ability, such report shall be made as soon as it is determined that such permanent disability has resulted or will result from such injury. All such reports shall state the date of injury, including the time of day or night, the nature of the employer's business, the age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the nature of the injury, the length of disability and, in case of death, the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known, the making of reports as provided herein shall release the employer covered by the provisions of this Act from making such reports to any other officer of the State.

In the states where acts do not specifically impose this duty, the boards have construed the duty as implied[69] and have drafted forms for this purpose. In some states the failure to make the report renders the employer liable to a penalty.[70] The citations of the provisions of the other states relating to this subject are found in the foot note.[71]

[69] Kansas Act, § 16; see ante § 292, this volume. Wisconsin Act, § 2394-14; see ante § 227, this volume.

[70] California Laws, ch. 53, 1911, § 7; see ante § 263, this volume. Massachusetts Act, Part III, § 18; see ante §§ 304, this volume. Michigan Act, Part III, § 17; see ante § 355, this volume. New Hampshire Act, § 12; see ante § 296, this volume. Ohio Laws, ante § 173, chapter XI. Washington Act, § 14, note by commission; see ante § 124, this volume.

[71] California Laws, ch. 53, 1911, §§ 1-6 and 8; see ante § 263, this volume. Kansas Act, § 16; see ante § 292, this volume. Massachusetts Act, Part III, § 18; see ante § 304, this volume. Michigan Act, Part III, § 17; see ante § 355, this volume. New Hampshire Act, § 12, see ante § 296, this volume. New Jersey Laws, see

§ 410. Notice of injuries by employé.—The acts of all the states require an injured employé, or some one on his behalf, or on behalf of his dependents in case he is killed, to give notice of the injury to his employer to establish such employe's right to recovery of compensation. The contents of such notice are clearly set forth in the Michigan[72] Act in the following language:

No proceedings for compensation for an injury under this act shall be maintained, unless a notice of the injury shall have been given to the employer three months after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employé, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.

The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his dependents or by a person in their behalf.

The notice shall be served upon the employer or an agent thereof. Such service may be made by delivering said notice to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.

A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mis-

ante § 257, par. 2, and New Jersey Laws, 1912, chapter 156. New York Act, ch. 352, Laws 1910, article 14, § 212. Ohio Act, § 9; see ante, §§ 171 and 173 (section 1). Washington Act, § 14; see ante § 124, this volume. Wisconsin Act, § 2394-14; see ante, § 227, this volume; Rule II, § 242, form (e).

[72] Michigan Act, Part II, §§ 15-18; see ante § 355, this volume.

lead, and the employer, or the insurance company carrying such risk, or the commissioner of insurance, as the case may be, was in fact misled thereby. Want of such written notice shall not be a bar to proceedings under this act, if it be shown that the employer had notice or knowledge of the injury.

The citations of the provisions of the other acts are given in the foot note.[73] The forms of the procedure on this subject will be found at the close of the respective chapters on these acts. (Chapters X to XXII).

§ 411. Report of accident and injuries.—The Acts of Nevada and Rhode Island contain no provisions relating to this subject. The acts of the other eleven states vary in degree of comprehensiveness of regulation of the reports of accidents and injuries from the mere requirement of reporting the name and amounts paid an injured employé under an agreement or after court proceedings under the compensation plan of New York[74] to the elaborate schemes provided under the California[75] (special statute), Ohio,[76] Washington,[77] and Wisconsin[78] Acts.

[73] California Act, § 10; see ante § 263, this volume. Illinois Act, § 14; see ante § 326, this volume. Kansas Act, § 22; see ante § 292, this volume. Massachusetts Act, Part II, §§ 15, 16, 17, 18 and 23; see ante, § 303, this volume. Nevada Act, § 4; see ante § 290, this volume. New Hampshire Act, § 5; see ante § 296, this volume. New Jersey Act, § II, 15; see ante § 255, this volume. New York Act, Laws 1910, ch. 352, article 14, § 206. Ohio Act, §§ 8 and 16; see ante § 171 and § 174, Rules 4 and 5, this volume. Rhode Island Act, Article II, §§ 17, 18, 19, 20; see ante § 367, this volume. Washington Act, § 12 (a) (b) (c) (d); see ante § 124, this volume. Wisconsin Act, § 2394-II; see ante § 227, this volume.

[74] New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 212.

[75] California, chapter 53, Laws 1911, §§ 1-8; see ante § 263, this volume.

[76] Ohio Act, §§ 9, 10 and 39; and text, ante § 173, § 1; see ante § 171, this volume. Rhode Island Act contains no provision on the subject.

[77] Washington Act, § 14, pars. 1, 2, 3; see ante § 124, this volume.

[78] Wisconsin Act, Text, chapter XII, forms (e) and (f), and (j); see ante § 227, this volume.

The provisions of the Washington Act are given in general as a type of the requirements in this respect which reads as follows:

Sec. 14. Notice of accident.—Whenever any accident occurs to any workman it shall be the duty of the employer to at once report such accident and the injury resulting therefrom to the department, and also to any local representative of the department. Such report shall state:

1. The time, cause and nature of the accident and injuries, and the probable duration of the injury resulting therefrom.

2. Whether the accident arose out of or in the course of the injured person's employment.

3. Any other matters the rules and regulations of the department may prescribe.

Note by board.—"Every person who, after due notice, shall refuse or neglect to make or furnish any statement, report or information lawfully required of him by any public officer, or who, in such statement, report or information shall make any wilfully untrue, misleading or exaggerated statement, or who shall wilfully hinder, delay or obstruct any public officer in the discharge of his official powers or duties, shall be guilty of a misdemeanor." Rem. and Bal. Code, Sec. 2672; Sec. 420, Chap. 249, Laws 1909.

Reference to the provisions of the acts of the other six states are given in the foot note.[79]

For forms of such reports see "Formal Procedure" at the close of the several chapters on the respective acts.

§ 412. Compensations provided by the acts in the event of death and funeral expenses.—The California[80] Act provides, in the event of death of an employé leaving

[79] Illinois Act, § 19; see ante § 326, this volume. Kansas Act, § 16; see ante § 292, this volume. Massachusetts Act, Part III, § 18; see ante § 303, this volume. Michigan Act, Part III, § 17; see ante § 355, this volume. Nevada Act is silent on the subject; see ante § 290, this volume. New Hampshire Act, § 12; see ante § 296, this volume. New Jersey; see ante § 257, par. 2, this volume.

[80] California Act, § 8 (3), (a) (b) (c); see ante § 263, this volume.

dependents, that the compensation shall be three years' average earnings, with a minimum of one thousand dollars ($1000.00) and a maximum of five thousand dollars ($5000.00). In case the decedent leaves no dependents, the act provides for the payment of the reasonable expenses of his burial not to exceed one hundred dollars ($100.00). The law further provides that the Industrial Board, at its discretion, may order payment of the compensation in a lump sum or in weekly payments, and where the decedent leaves persons partially dependent upon his earnings they shall be paid such a percentage of three times the average annual earnings of the decedent as the annual amount received by such dependents from the decedent bears to such average earnings. The board may revise payments from time to time as equity may require. The Illinois[81] Act, in the event of death of a workman leaving dependents, provides that the compensation shall be four years' average annual earnings, with a minimum of fifteen hundred dollars ($1500.00) and a maximum of thirty-five hundred dollars ($3500.00). In case the decedent does not leave dependents, there may be awarded a sum not to exceed one hundred fifty dollars ($150.00) for burial expenses. The Kansas[82] Act provides, in the event of death of an employé leaving dependents that the compensation shall be three years' earnings, with a minimum of twelve hundred dollars ($1200.00) and a maximum of thirty-six hundred dollars ($3600.00). If the decedent does not leave dependents, then the reasonable expense of his medical attendance and burial not to exceed one hundred dollars ($100.00) may be awarded. The Massachusetts,[83] Michigan[84] and

[81] Illinois Act, § 4 entire; see ante § 326, this volume.

[82] Kansas Act, § 11, 12, 13, 14; see ante § 292, this volume.

[83] Massachusetts Act, Part II, §§ 1 to 8 inclusive; see ante § 304, this volume.

[84] Michigan Act, Part II, §§ 1 to 8 inclusive; see ante § 355, this volume.

Rhode Island[85] Acts provide that in the event of death of a workman leaving dependents the compensation shall be fifty per cent. (50%) of the weekly wages for three hundred (300) weeks, with a minimum of four dollars ($4.00) and a maximum of ten dollars ($10.00) a week. The provision for the payment of compensation to persons partially dependent upon the decedent is the same as that in the California Act. In case the decedent does not leave dependents, then these Acts provide that reasonable expenses of last sickness and burial not exceeding two hundred dollars ($200.00) be awarded. The New Hampshire[86] Act provides that in the event of death of a workman leaving dependents the compensation shall be one hundred fifty (150) times the average weekly earnings, which in no case shall be more than three thousand dollars ($3000.00). The provisions for compensating persons partially dependent is the same as in the California Act. In case the decedent does not leave dependents, the reasonable expenses of his medical attendance and burial not to exceed one hundred dollars ($100.00) shall be paid. The New Jersey[87] Act provides that in the event of the death of a workman leaving dependents the compensation shall be from twenty-five (25) to sixty (60) per cent. of the weekly earnings for three hundred (300) weeks, with a minimum of five dollars ($5.00) and a maximum of ten dollars ($10.00) per week; and in case the decedent does not leave dependents, funeral expenses not to exceed two hundred dollars ($200.00) shall be paid. The New York[88] Act provides that in the event of death of a workman leaving dependents that the compensation shall be twelve

[85] Rhode Island Act, Article II, §§ 1 to 9 inclusive; see ante § 367, this volume.

[86] New Hampshire Act, § 6 (1); see ante § 296, this volume.

[87] New Jersey Act, § II, pars. 7 to 9 and 12 to 16; see ante § 255, this volume.

[88] New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 207, par. 1.

hundred (1200) times decedent's daily earnings, not exceeding three thousand dollars ($3000.00), (for the compensation of persons partially dependent, see California Act above;) and in case the decedent leaves no dependents, reasonable expenses of his medical attendance and burial not to exceed one hundred dolars shall be awarded. The Nevada[89] Act provides that in the event of death of a workman leaving dependents, that the compensation shall be three years' earnings, with a minimum of two thousand dollars ($2000.00) and a maximum of three thousand dollars ($3000.00) total compensation; persons partially dependent receive fifty per cent. (50%) of what persons wholly dependent receive; and if the decedent does not leave dependents, reasonable expenses of his medical attendance and burial not to exceed three hundred dollars ($300.00) shall be awarded. The Ohio[90] Act provides, in the event of the death of a workman leaving dependents the compensation shall be sixty-six and two-thirds per cent. (66 2-3%) of his average weekly wage, to continue from the date of death for six (6) years, with a minimum of fifteen hundred dollars ($1,500.00) and a maximum of three thousand four hundred dollars ($3400.00), total compensation, and funeral expenses not to exceed one hundred fifty dollars ($150.00). In case the decedent leaves no dependent, the board may award reasonable funeral expenses not to exceed one hundred fifty dollars ($150.00) and such amount for medical, nurse and hospital services and medicines as it thinks proper not to exceed two hundred dollars ($200.00). The Washington[91] Act provides that in the event of death of an employé leaving dependents that the compensation shall be twenty dollars ($20.00) per month for the surviving

89 Nevada Act, § 5; see ante, § 290, this volume.

90 Ohio Act, §§ 23, 24, 25, 28, 29 and 30; see ante § 171, this volume.

91 Washington Act, § 5 (a), (c), (e); see ante § 124, this volume.

spouse while single, and five dollars ($5.00) per month for each child under sixteen (16), with a maximum monthly payment of thirty-five dollars ($35.00) and with a maximum of four thousand dollars ($4,000.00) total compensation. In case the decedent does not leave dependents, burial expense may be allowed not to exceed seventy-five dollars ($75.00). The dependents are classified and the compensation paid them is specifically stated. The Industrial Accident Commission is clothed with authority to commute and revise compensations awarded. The Wisconsin[92] law provides that in the event of the death of a workman leaving dependents, the compensation shall be four (4) years' earnings, with a minimum of fifteen hundred dollars ($1,500.00) and a maximum of three thousand dollars ($3,000.00) total compensation. If the decedent does not leave dependents, funeral expenses may be allowed not to exceed one hundred dollars ($100.00). The Industrial commission may commute the compensation by lump sum payments.

§ 413. Who are dependents.—Provision is universally made in all of the compensation acts to provide compensation for persons who wholly or in part depend upon an employé who is killed in the due course of employment. The Wisconsin[93] Act defines dependents thus:

"The following shall be conclusively presumed to be solely and wholly dependent for support upon a deceased employé:

"(a) A wife upon a husband with whom she is living at the time of his death.

"(b) A husband upon a wife with whom he is living at the time of her death.

"(c) A child or children under the age of eighteen

92 Wisconsin Act, § 2394-9, pars. 1, 2 and 3; see ante § 227, this volume.

93 § 2394, 3 (a), (b), (c) and (4); see ante § 237, this volume.

years (or over said age, but physically or mentally incapacitated from earning), upon the parent with whom he or they are living at the time of the death of the parent, there being no surviving dependent parent.

"In all other cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may be at the time of the death of the employé; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partially dependent, if any, shall receive no part thereof; and if there is more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

"No person shall be considered a dependent unless a member of the family of the deceased employé, or bears to him the relation of husband or widow, or lineal descendant, or ancestor, or brother, or sister."

The definition of who are dependents given in the other statutes are similar with slight limitation.[94]

§ 414. When compensation begins in case of disability.—Under the several acts, compensation begins as follows: Under the California,[95] Illinois,[96] Ohio[97] and Wisconsin[98] Acts, after the first week; under the

[94] California Act, § 9 (3); see ante § 263, this volume. Illinois Act, § 4, a, b; see ante § 326, this volume. Kansas Act, § 11 (1), (2), (3); see ante § 292, this volume. Massachusetts Act, Part II, § 7; see ante § 304, this volume. Michigan Act, Part II, §§ 6 and 7; see ante § 355, this volume; New Hampshire Act, § 6 (1); see ante § 296, this volume. New Jersey Act, § II, par. 12 (1); see ante § 255, this volume. Nevada Act, § 5 (a) and (b); see ante § 290, this volume. New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 207 (a) and (b). Ohio Act, § 28, pars. 2, 3, and § 29; see ante § 171, this volume. Rhode Island Act, Article II, §§ 7-8; see ante § 367, this volume. Washington Act, § 5 (a), (1), (2), (3), (4), (b), (2) and (3), (c) and (i); see ante § 124, this volume.

[95] California Act, § 8, (2) (d); see ante § 263, this volume.

[96] Illinois Act, § 5, (b); see ante § 326, this volume.

[97] Ohio Act, § 25; see ante § 171, this volume.

[98] Wisconsin Act, § 2394-9, par. 2; see ante § 227, this volume.

Kansas,[99] Massachusetts,[1] Michigan,[2] New Hampshire,[3] New York,[4] New Jersey[5] and Rhode Island[6] Acts, after two weeks; under the Washington[7] Act, from the time the injury occurred; under the Nevada[8] Act, ten (10) days after the injury was received.

§ 415. Compensation for total disability.—The acts of the several states respectively provide that in case an employé is totally disabled, the compensation shall be as follows: Under the California[9] Act it shall be sixty-five per cent. (65%) of the employé's average weekly wages during such disability for not more than fifteen (15) years, and that the total shall not exceed three (3) years' earnings, with a minimum of three hundred and thirty-three dollars and thirty-three cents ($333.33) and a maximum of one thousand six hundred and sixty-six dollars and sixty-six cents ($1,666.66) per annum; under the Illinois[10] Act the compensation shall be fifty per cent. (50%) of the employé's weekly earnings for eight (8) years, figured on a minimum of five dollars ($5.00) and a maximum of twelve dollars ($12.00) per week, and the total compensation shall not exceed thirty-five hundred dollars ($3,500.00). However, if complete disability continues, then the compensation shall continue during life equal to eight per cent. (8%) of the death benefit, which in any event shall not be less than ten dollars ($10.00) per month; under the Kansas[11] Act the compensation shall be fifty per cent. (50%)

[99] Kansas Act, § 1, (a); see ante § 292, this volume.
[1] Massachusetts Act, Part II, § 4; see ante § 304, this volume.
[2] Michigan Act, Part II, § 3; see ante § 355, this volume.
[3] New Hampshire Act, § 3; see ante § 296, this volume.
[4] New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 206.
[5] New Jersey Act, § II, par. 13; see ante § 255, this volume.
[6] Rhode Island Act, Article II, § 2; see ante § 367, this volume.
[7] Washington Act, § 5; see ante § 124, this volume.
[8] Nevada Act, § 1; see ante § 290, this volume.
[9] California Act, § 8 (a); see ante § 263, this volume.
[10] Illinois Act, § 5, a, c and e; see ante § 326, this volume.
[11] Kansas Act, § 11 (b); see ante § 292, this volume.

of the injured workman's average weekly earnings, with a minimum of six dollars ($6.00) and a maximum of fifteen dollars ($15.00) per week, and that the compensation shall begin two (2) weeks after the accident and in no event continue for more than ten (10) years; under the Massachusetts[12] Act the compensation shall be fifty per cent. (50%) of the injured workman's weekly loss of wages, with a minimum of four dollars ($4.00) and a maximum of ten dollars ($10.00) per week, which in no event shall continue for more than five hundred (500) weeks, and shall in no case exceed a total compensation of three thousand dollars ($3,000.00). It is further provided under this act that certain specified injuries shall be paid fixed rates. Under the Michigan[13] Act the compensation shall be fifty per cent. (50%) of the injured workman's average weekly wages, with a minimum of four dollars ($4.00) and a maximum of ten dollars ($10.00) per week, which in no event shall continue for more than five hundred (500) weeks and shall in no case exceed a total compensation of four thousand dollars ($4,000.00). This act further provides that specified injuries shall be paid fixed rates. Under the New Hampshire[14] Act the injured employé shall be paid fifty per cent. (50%) of his average weekly earnings so long as total disability continues, with a maximum of ten dollars ($10.00) per week, and that the compensation shall not continue for more than three hundred (300) weeks from the date of the accident. Under the New Jersey[15] Act the injured employé shall be paid fifty per cent. (50%) of his wages for four hundred (400) weeks, based on a minimum of five dollars ($5.00) and a maximum of ten dollars

[12] Massachusetts Act, § 9 and § 11 (a) to (d); see ante § 304, this volume.

[13] Michigan Act, Part II, § 9; see ante § 355, this volume.

[14] New Hampshire Act, § 6 (2); see ante § 296, this volume.

[15] New Jersey Act, § II, par. 11 (b); see ante § 255, this volume.

($10.00) per week. Provided that if the employé's wages were less than five dollars ($5.00) per week at the time he was injured, then he shall be paid his full wages. The act further provides that specified injuries shall be paid fixed rates. Under the Nevada[16] Act the compensation paid such an injured employé shall be sixty per cent. (60%) of his average weekly earnings, but in no event shall the total of all payments exceed three thousand dollars ($3,000.00). Under the New York[17] Act the compensation paid such an injured employé shall be fifty per cent. (50%) of his average weekly earnings, in no case to exceed ten dollars ($10.00) per week, and shall not continue longer than eight (8) years from the date of the accident. Under the Ohio[18] Act the compensation that shall be paid to an employé permanently and totally disabled shall be sixty-six and two-thirds per cent. (66 2-3%) of his average weekly wage and shall continue until the death of such person, with a minimum of five dollars ($5.00) and a maximum of twelve dollars ($12.00) per week, but if the employé's wages were less than five dollars ($5.00) per week, then he shall receive his full wages. In case the employé's total disability is temporary, then his compensation shall be sixty-six and two-thirds per cent. (66 2-3%) of his average weekly wages, with a minimum of five dollars ($5.00) per week and a maximum of twelve dollars ($12.00), the same to continue for not to exceed six (6) years, and the total compensation in no case to exceed three thousand four hundred dollars ($3,400.00), on account of the same injury. Under the Rhode Island[19] Act it is provided that the compensation paid to an injured employé shall be fifty per cent. (50%) of his average weekly wages, with

[16] Nevada Act, § 6 (a) and (b); see ante § 290, this volume.

[17] New York Act, N. Y. Laws 1910, Article 14, ch. 352, § 207, 2.

[18] Ohio Act, § 27; see ante § 171, this volume.

[19] Rhode Island Act, Article II, § 10 and § 12; see ante § 367, this volume.

a minimum of four dollars ($4.00) and a maximum of ten dollars ($10.00) per week, and that the same shall continue for not more than five hundred (500) weeks. It is further provided that specified injuries shall be paid fixed rates. Under the Washington[20] Act it is provided that the compensation paid an injured employé shall be twenty dollars ($20.00) per month, if single, and twenty-five dollars ($25.00) per month, if married, and for each child under sixteen (16) years of age there shall be paid five dollars ($5.00) per month, and that the total compensation per month shall not exceed thirty-five dollars ($35.00), or sixty per cent (60%) of the monthly wage, and that the total compensation shall not exceed four thousand dollars ($4,000.00). If the injury was caused by the removal of a safeguard by the injured employé, the compensation shall be reduced ten per cent. (10%). Under the Wisconsin[21] Act the compensation paid an injured employé shall be sixty-five per cent. (65%) of his earnings, figured on a minimum of three hundred and seventy-five dollars ($375.00) and a maximum of seven hundred and fifty dollars ($750.00) annually, and that the compensation shall not continue to exceed four years' earnings. If the totally disabled employé requires a nurse, the compensation shall, ninety (90) days after such nurse became necessary, be increased to one hundred per cent. (100%) of the average weekly earnings.

§ 416. Compensation paid on account of partial disability.—The acts of the several states provide that the compensation in case of partial disability of an injured employé shall be paid during such disability and shall be, respectively, as follows: Under the California[22] Act

20 Washington Act, § 5 (b), (c), (d) and (e); see ante § 124, this volume.

21 Wisconsin Act, § 2394-9, par. 2 (a), (c), (d); see ante § 227, this volume.

22 California Act, § 8 (1), (2), (b) and (c); see ante § 263, this volume.

the compensation paid shall be sixty-five per cent. (65%) of the loss of wages of the injured employé, and that the wages considered and the amount of the total payment shall have the same limits as in the cases for total disability; under the Illinois[23] Act the compensation shall be fifty per cent. (50%) of the injured employé's loss of weekly wages, with a minimum of five dollars ($5.00) and a maximum of twelve dollars ($12.00) per week, and that the compensation shall not continue for more than eight (8) years; additional compensations are provided for disfigurement; under the Kansas[24] Act the compensation paid shall be from twenty-five (25) to fifty (50) per cent. of the injured employé's average weekly earnings, with a minimum of three dollars ($3.00) and a maximum of twelve dollars ($12.00) per week, and that the same shall not continue for more than ten (10) years. If the age of the employé was less than twenty-one (21) years of age and his wages less than ten dollars ($10.00) per week when injured, his compensation shall not be less than seventy-five per cent. (75%) of his average weekly earnings; under the acts of Massachusetts[25] and Rhode Island[26] the compensation shall be fifty per cent. (50%) of the injured employé's loss of weekly wages, with a maximum of ten dollars ($10.00) per week, and that the same shall not continue for more than three hundred (300) weeks. These laws further provide that fixed rates of compensation shall be paid for specified injuries; under the Michigan[27] Act the compensation paid shall be one-half (½) of the difference between the injured employé's weekly wage at the time of the injury and after the in-

[23] Illinois Act, § 5, a, b, c and d; see ante § 326, this volume.

[24] Kansas Act, § 11 (c) and § 12; see ante § 292, this volume.

[25] Massachusetts Act, Part II, § 5 and §§ 10 and 11 (a) to (d); see ante § 303, this volume.

[26] Rhode Island Act, Article II, §§ 11 and 12; see ante § 367, this volume.

[27] Michigan Act, Part II, §§ 4 and 10; see ante § 355, this volume.

jury, and that the same shall not exceed ten dollars ($10.00) per week or continue to exceed three hundred (300) weeks. The act further provides fixed rates of compensation for specified injuries; under the New Hampshire[28] Act the compensation paid shall be fifty per cent. (50%) of the injured employé's loss of weekly wages, with a maximum of ten dollars ($10.00) per week, and that the same shall not continue to exceed three hundred (300) weeks; under the New Jersey[29] Act the compensations are paid according to fixed schedules for definable injuries, and for other injuries a relative proportion to the fixed schedules; under the New York[30] Act the compensation shall be fifty per cent. (50%) of the injured employé's loss of wages and that the same shall not exceed ten dollars ($10.00) per week and shall not continue longer than eight (8) years; under the Nevada[31] Act the compensation paid shall be such proportion of sixty per cent. (60%) of the injured employé's earnings as his loss of capacity bears to his total disability, and in no event shall the total payment exceed three thousand dollars ($3,000.00). It is further provided that maiming shall be compensated as in cases of total disability. Under the Ohio[32] Act the compensation paid shall be sixty-six and two-thirds per cent. (66 2-3%) of the injured employé's impairment of his average weekly wages during the continuance thereof, not to exceed six (6) years, with a minimum of five dollars ($5.00) per week and a maximum of twelve dollars ($12.00) per week, and that the total compensation on account of any such injury shall not exceed thirty-four hundred dollars ($3,400.00). Under the Washington[33]

28 New Hampshire Act, § 6 (2); see ante § 296, this volume.

29 New Jersey Act, § II, par. 11, (a) and (c); see ante § 255, this volume.

30 New York Act, § 207, 2, Laws 1910, ch. 352, Article 14.

31 Nevada Act, § 6, (a) and (b); see ante § 290, this volume.

32 Ohio Act, §§ 23 and 26; see ante § 171, this volume.

33 Washington Act, § 5 (f), (g), (h); see ante § 124, this volume.

Act the compensation shall be paid in a lump sum, in an amount equal to the extent of the injury, to be decided in the first instance by the department, but not in any case to exceed the sum of fifteen hundred dollars ($1,500.00); under the Wisconsin[34] Act the compensation paid shall be sixty-five per cent (65%) of the injured employé's loss of annual wages and that the total compensation shall not exceed four years' wages, nor three thousand dollars ($3,000.00), nor shall extend beyond fifteen (15) years.

§ 417. Medical and surgical aid.—Under the acts of the several states it is provided that expenses paid on account of medical and surgical aid shall be respectively as follows: Under the California[35] Act such expenses, reasonable in amount, shall be paid during the first ninety (90) days and that the total sum thus paid shall not exceed one hundred dollars ($100.00); under the Illinois[36] Act the necessary medical, surgical and hospital services on account of an injured employé shall be paid for a period of eight (8) weeks, and that the total sum thus paid shall not exceed two hundred dollars ($200.00). It is further separately provided that the expenses of necessary services of physician and surgeon for a period of eight (8) weeks shall be paid, without limitations on the amount. Under the acts of Kansas,[37] New Hampshire,[38] Nevada,[39] New York,[40] no provision is made for such expenses unless the employé dies, leaving no dependents. Under the New Jersey[41] Act such expenses are provided during the first two (2)

[34] Wisconsin Act, § 2394-9, 1 and 2, (b) and (c) and (d); see ante § 367, this volume.

[35] California Act, § 8 (1); see ante § 263, this volume.

[36] Illinois Act, § 5, a; see ante § 326, this volume.

[37] Kansas Act, § 11 (a), (3); see ante § 292, this volume.

[38] New Hampshire Act, § 6 (1), (c); see ante § 296, this volume.

[39] Nevada Act, § 5 (c); see ante § 290, this volume.

[40] New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 207 (c).

[41] New Jersey Act, § II, par. 14; see ante § 255, this volume.

weeks and that the total sum thus paid shall not exceed one hundred dollars ($100.00); under the Massachusetts[42] and Rhode Island[43] Acts, during the first two (2) weeks the expenses of reasonable medical and hospital service and medicines, when needed, shall be paid; in Rhode Island, in case one employer and employé disagree as to the amount, it shall be fixed by the superior court; under the Michigan[44] Act there is a provision for the reasonable medical, hospital service and medicines during the first three weeks; under the Ohio[45] Act a provision is made for such expenses as the State Liability Board of Awards may deem proper and that the total sum of such expenses shall not exceed two hundred dollars ($200.00); under the Washington[46] Act no provision is made for such expenses; under the Wisconsin[47] Act there shall be paid such expenses as the Industrial Commission may regard as reasonable and to continue during the first ninety (90) days, and that the sum shall include medicines, appliances and hospital expenses.

§ 418. Who are employés.—The term "employé" is comprehensively defined in these words by the Massachusetts Statutes[48]. "Empleyé shall include every person in the service of another under any contract of hire, express or implied, oral or written, except one whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of his employer. Any reference to an employé who has been injured, shall, when the employé is dead, also include his legal representative, dependent and other persons to

[42] Massachusetts Act, Part II, § 5; see ante § 303, this volume.
[43] Rhode Island Act, Article II, § 5; see ante § 367, this volume.
[44] Michigan Act, Part II, § 4; see ante § 355, this volume.
[45] Ohio Act, § 23; see ante § 171, this volume.
[46] Washington Act, § 5 (a); see ante 124, this volume.
[47] Wisconsin Act, § 2394-9, 1; see ante § 227, this volume.
[48] Massachusetts Act, Part V, § 1; see ante § 303, this volume.

whom compensation is made." The term is expressly defined in many of the statutes, references to which may be found in the foot notes.[49]

§ 419. The manner in which compensation is paid. —The acts of California,[50] Illinois, [51] Kansas,[52] Nevada,[53] New Hampshire,[54] New York,[55] New Jersey,[56] Rhode Island[57] and Wisconsin,[58] provide that the compensation be paid direct by the employer. The Washington Act[59] provides that the compensation be paid from a state insurance fund, created by contributions from the employers covered by the act. The acts of Massachusetts[60] and Michigan[61] provide that the compensation be paid by the employer through optional plans of insurance. The Ohio[62] Act provides that the compensation be paid from a state insurance

[49] California Act, § 6; see ante § 263, this volume. Illinois Act, § 21; see ante § 326, this volume. Kansas Act, § 9 (1); see ante § 292, this volume. New Hampshire Act, employé not defined. Nevada Act, § 2; see ante § 290, this volume; New Jersey Act, employé is not defined. New York Act, employé is not defined. Michigan Act, Part I, § 7; see ante § 355, this volume. Ohio Act, employé is not defined. Rhode Island Act, Article V, § 1 (b); see ante § 367, this volume. Washington Act, § 3; see ante § 124, this volume.

[50] California Act, §§ 1, 2 and 3; see ante § 263, this volume.

[51] Illinois Act, §§ 1, 2 and 3; see ante § 326, this volume.

[52] Kansas Act, §§ 1, 2, 3 and 4; see ante § 292, this volume.

[53] Nevada Act, §§ 1, 2 and 3; see ante § 290, this volume.

[54] New Hampshire Act, §§ 1, 2, 3 and 4; see ante § 296, this volume.

[55] New York Act, N. Y. Laws 1910, ch. 352, Article 14, §§ 200 and 206.

[56] New Jersey Act, §§ I and II, pars. 7, 8, 9 and 10; see ante § 255, this volume.

[57] Rhode Island Act, Article I and Article II, § 1; see ante, § 367, this volume.

[58] Wisconsin Act, §§ 2394-4; see ante § 227, this volume.

[59] Washington Act, §§ 1 and 4; see ante § 124, this volume.

[60] Massachusetts Act, Parts I and II; see ante § 304, this volume.

[61] Michigan Act, Part IV, §§ 1, 2, 3 and 4; see ante § 355, this volume.

[62] Ohio Act, §§ 20-1 and 21-1; see ante § 171, this volume.

fund, created by contributions both by the employers and employés, the employers contributing one hundred per cent. (100%) of the fund and are authorized to deduct ten per cent. (10%) of their premiums from the pay-roll of their employés, the state paying the entire cost of administration.

§ 420. Commutation of awards and claims.—All of the commutation acts, excepting Nevada, provide for the commutation of claims and awards. The procedure in this respect provides that the commissions, boards of awards, boards of arbitration, agreement of the parties, and courts shall commute any sums ordered paid by them according to the equities and circumstances of the parties in interest. The provision of the Ohio[63] Act which authorizes commutation of awards is the following:

Sec. 34. The board, under special circumstances, and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments.

Note by the Board.—The power here given to the Board will, as a matter of policy, be soldom exercised, as in practically all cases, it is better for the beneficiaries to receive the award to which they are entitled in installments at stated intervals, rather than in a lump sum. The reasons for this are obvious.

The plans of the other acts are cited in the foot note.[64]

[63] Ohio Act, § 34; see ante § 171, this volume. Rhode Island Act, Article II, § 25; see ante § 367, this volume. Washington Act, § 5 (j), (k) and 7; see ante § 124, this volume. Wisconsin Act, § 2394-28, 1-2; see ante § 227, this volume.

[64] California Act, § 8 (3), (a); section 28; see ante § 263. Illinois Act, § 5½; see ante § 326, this volume. Kansas Act, §§ 14, 31, 33; see ante § 292, this volume. Massachusetts Act, Part II, § 22; see ante § 303, this volume. Michigan Act, Part II, § 22; see ante § 355, this volume. Nevada, no provision. New Hampshire Act, § 9; see ante § 296, this volume. New Jersey Act, § 11-21; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 208.

§ 421. Serious, or intentional and wilful misconduct—Intoxication and drunkenness.—It is a universal principle, contained in all of the Workmen's Compensation and Insurance Statutes that the injured employés covered by the act shall be denied compensation in case the cause of the injury is attributable to the "serious, or intentional and wilful misconduct," "intoxication" or "drunkenness," etc., of such employé. For example, the Rhode Island[65] Act provides that:

"No compensation shall be allowed for the injury or death of an employé where it is proved that his injury or death was occasioned by his wilful intention to bring about the injury or death of himself or of another, or that the same resulted from his intoxication while on duty."

The corresponding provisions of the other acts will be found in the foot note.[66]

Employer.

A majority of the statutes provide for augmentation of an injured employé's rights the cause of whose injury is attributable to wilful intention of the employer to cause the injury. For example, the New Hampshire[67] Statute provides:

"That the employer shall at the election of the workman, or his personal representative, be liable under provision of section 2 of this act for all the injury caused in

[65] Rhode Island Act, Article II, § 2; see ante § 367, this volume.

[66] California Act, § 2; see ante § 263, this volume. Illinois Act, § 8; see ante § 326, this volume. Kansas Act, § 1, (b); see ante § 292, this volume. Massachusetts Act, Part II, § 2; see ante § 303, this volume. Michigan Act, Part II, § 2; see ante § 355, this volume. New Hampshire Act, § 3; see ante § 296, this volume. New Jersey Act, § I, par. 1; § II, par. 7; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 206. Nevada Act contains no such provision. Ohio Act, § 21; see ante § 171, this volume. Washington Act, § 6; see ante § 124, this volume. Wisconsin Act, §§ 2394-4, 3; see ante § 277, this volume.

[67] New Hampshire Act, § 3; see ante § 296, this volume. Kansas Act, § 5. California Act, § 3.

whole or in part by wilful failure of the employer to comply with any statute, or with any order made under authority of law."

Similar provisions are found in other statutes in the foot note.[68]

§ 422. Election of remedies.—The Washington act makes it mandatory upon all employers covered by the law to pay the premiums assessed upon them by the Industrial Accident Board (sections 1 and 4 of act). The right of the employer and his employés to elect whether he or they shall be bound by the provisions of the act is denied both of them, except in the single instance, of rare occurrence, namely, where the cause of the injury or death of an employé covered by the act is due to the deliberate intention of the employer to produce such injury or death. In that case the employé, or in case of death, his legal representative, has the privilege of taking under the act and also of suing the employer at law,—as if the act had not been passed,—to recover any excess of damage over the amount received or receivable under section 6 of the act. A majority of the acts of the thirteen states provides for the election of both the employer and the employé whether they shall be bound by the provisions thereof respecting the payment and acceptance of compensation. Under the Ohio act, the right of election of the employé to accept the compensations provided by the law or to sue his employer is limited to a single case of rare occurrence, namely, when his employer wilfully causes the injury (see section 21-1 of act).

The discussion of the right of the election of remedies under compensation acts is closed with pointing

[68] California Act, § 3; see ante § 263, this volume. Kansas Act, § 5; see ante § 292, this volume. Massachusetts Act, Part II, § 3; see ante § 304, this volume. New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 205. Ohio Act, § 21; see ante § 171, this volume. Washington Act, § 6; see ante § 124, this volume.

out the provisions of the Illinois Act, in this respect. Under this act, the employer covered by the act, who does not accept the provisions of the same and is sued by an injured employé, loses the three so-called common-law defenses except as they are modified by the rule of comparative negligence (see section 1, pars. 1, 2, 3 of act). If such an employer elects to be bound by the provisions of the act, his employés or their dependents are compelled to accept the compensations provided by the law except where there has been a direct and intentional omission by the employer to comply with the statutory safety regulations, and such compensation shall not in any way be reduced by contributions from employés (section 7 of act). On the other hand if it is proved that the injury to the employé resulted from his deliberate intention to cause such injury, no compensation with respect to that injury shall be allowed (section 8 of act).

The citations of the corresponding provisions of the other acts are given in the foot notes.[69]

§ 423. Alternative schemes of compensation permitted.—The Washington[70] and Ohio[71] Acts are in fact straight compulsory insurance acts. The acts of Illinois, Nevada and New Jersey are compensation acts with direct employer's liability. The acts of the other

[69] California Act, §§ 1 and 2 and 3; see ante § 263. Kansas Act, §§ 1, 2 and 5 (a); see ante § 292, this volume. Massachusetts Act, Part I, §§ 1, 4 and 5; Part III, § 15; Part V, §§ 1 and 3; Part II, § 3; Part IV, § 22; see ante § 303, this volume. Michigan Act, Part I, § 4; see ante § 355, this volume. Nevada Act, §§ 11, 3, 1; see ante § 290, this volume. New Hampshire Act, §§ 2, 3, 4; see ante § 296, this volume. New Jersey Act, § I, pars. 1, 2, 4, 5; § II, par. 9; § III, par. 23; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 205. Rhode Island Act, Article I, § 7; see ante § 367, this volume. Wisconsin Act, § 2394-4; see ante § 227, this volume.

[70] Washington Act, §§ 4, 5, 9 and 15, 21-24; see ante § 124, this volume.

[71] Ohio Act, §§ 1 to 21; see ante § 171, this volume.

eight states provide for alternative plans at the election of both employer and employé, with the approval of state authority. There is no uniformity among these alternative schemes. As an example the Kansas[73] Act provides:

"If the superintendent of insurance by and with the advice and written approval of the attorney general certifies that any scheme of compensation, benefit or insurance for the workman of an employer in any employment to which this act applies, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependents than the corresponding scales contained in this act, and that, where the scheme provides for contributions by the workman, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this act or their equivalents, the employer, may, while the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this act; and thereupon the employer shall be liable only in accordance with that scheme; but save as aforesaid, this act shall not apply notwithstanding any contract to the contrary made after this act becomes a law.

"No scheme shall be so certified which does not contain suitable provisions for the equitable distribution of any moneys or securities held for the purpose of the scheme, after due provision has been made to discharge the liabilities already accrued, if and when such certificate is revoked or the scheme otherwise terminated.

"If at any time the scheme no longer fulfills the requirements of this article, or is not fairly administered, or other valid and substantial reasons therefor exist,

[73] Kansas Act, §§ 39-43; see ante § 292, this volume.

the superintendent of insurance by and with the attorney general shall revoke the certificate and the scheme shall thereby be terminated.

"Where a certified scheme is in effect the employer shall answer all such inquiries and furnish all such accounts in regard thereto as may be required by the superintendent.

"Sec. 43. The superintendent of insurance may make all rules and regulations necessary to carry out the purposes of the four preceding sections."

The citation of such schemes in the other acts are found in the foot note.[74]

§ 424. Physical examination.—Naturally enough, all of the compensation acts prescribe the manner in which physical examinations of injured employés covered by the same shall be made, because it is only in this way that the extent of the injury, and therefore the amount of the compensation can be determined. The Massachusetts[75] Act prescribes the manner of making physical examination of an injured employé as follows: Part II, "Section 19 (as amended by section 4 of ch. 571, Acts 1912). After an employé has received an injury, and from time to time thereafter during the continuance of his disability he shall, if so requested by the association or subscriber, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the commonwealth, furnished and paid for by the association or subscriber. The employé shall have the right to have a physician provided and paid for by himself present at the examination. If he

[74] Massachusetts Act, Part IV, §§ 1-24; see ante § 303, this volume. Michigan Act, Part IV, §§ 1-4; Part V, 1-11; see ante § 355, this volume; New Hampshire Act, § 3; see nate § 296, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 203. Rhode Island Act, Article IV, 1-3; see ante § 367, this volume. Wisconsin Act, § 2394-26; see ante § 227, this volume.

[75] Massachusetts Act, Part II, § 19; see ante § 303, this volume.

refuses to submit himself for the examination, or in any way obstructs the same, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited."

The provisions of the statutes of the other states are cited in the foot notes.[76]

§ 425. **Appeals.**—The right of any party having an interest under any of the compensation acts to appeal from a decision of a court or of a commission or board vested with authority to make awards on claims under the acts varies greatly in its scope. For example, under the Nevada Act, compensation is enforced by an action in court. Either party can appeal the same as in any other action. In compensation acts administered by a commission or a board the right of appeal is more restricted. In the Ohio Act it is limited to the single case where on any ground the board denies the claimant any relief whatever. See section 36 which reads:

"The board shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final.

"Provided, however, in case the final action of such board denies the right of the claimant to participate at all in such fund on the ground that the injury was self-inflicted or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant within thirty (30) days after the notice of the final

[76] California Act, § 11; see ante § 263, this volume. Illinois Act, § 9; see ante § 326, this volume. Kansas Act, § 17; see ante § 292, this volume. Michigan Act, Part II, § 19; see ante § 355, this volume. Nevada Act, § 7; see ante § 290, this volume. New Hampshire Act, § 7; see ante § 296, this volume. New Jersey Act, § II, par. 17; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 207, par. 2; Ohio Act, §§ 8 and 16; see ante § 171, this volume. Rhode Island, Article II, § 21; see ante § 367, this volume. Washington Act, § 13; see ante § 124, this volume. Wisconsin Act, § 2394-12; see ante § 227, this volume.

action of such board may, by filing his appeal in the common pleas court of the county wherein the injury was inflicted, be entitled to a trial in the ordinary way, and be entitled to a jury if he demands it. In such a proceeding, the prosecuting attorney of the county, without additional compensation, shall represent the state liability board of awards, and he shall be notified by the clerk forthwith of the filing of such appeal.

"Within thirty days after filing his appeal, the appellant shall file a petition in the ordinary form against such board as defendant and further pleadings shall be had in said cause, according to the rules of civil procedure, and the court, or the jury, under the instructions of the court, if a jury is demanded, shall determine the right of the claimant; and, if they determine the right in his favor, shall fix his compensation within the limits and under the rules prescribed in this act; and any final judgment so obtained shall be paid by the state liability board of awards out of the state insurance fund in the same manner as such awards are paid by such board.

"The cost of such proceeding, including a reasonable attorney's fee to the claimant's attorney to be fixed by the trial judge, shall be taxed against the unsuccessful party. Either party shall have the right to prosecute error as in the ordinary civil cases."

Citations for the grounds of appeal found in the other acts are given in the foot note.[77]

[77] California Act, §§ 18 and 19; see ante § 263, this volume. Illinois Act, § 10; see ante § 326, this volume. Kansas Act, §§ 29 and 32; see ante § 292, this volume. Massachusetts Act, Part III, §§ 7, 10 and 11; see ante § 303, this volume. Michigan Act, Part III, §§ 11, 12 and 13; see ante § 355, this volume. New Hampshire Act, §§ 3 and 9; see ante § 296, this volume. New Jersey Act, § II, par. 18; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 208. Rhode Island Act, Article III, § 7; see ante § 367, this volume. Washington Act, §§ 20 and 25; see ante § 124, this volume. Wisconsin Act, §§ 2394-19, 2394-20 and 2394-21; see ante § 227, this volume.

§ 426. Preference of claims for compensation.—The Ohio, Kansas and Washington Acts contain no provisions on this subject. Under the statutes of Ohio[78] and Washington[79] there is no need of such provisions for the reason that the claim of the injured employé is against the state insurance fund, the employer having discharged his liability for personal injury claims by paying the premium assessed. There is no provision on this subject in the Massachusetts Act since awards in favor of injured employés are paid by the association;[80] but if the employer is insured in a liability insurance company such an award is secured by another provision of the act.[81] All of the other statutes contain specific provisions which give the injured employés preference of claims and awards for compensation of which the provision in the Illinois[82] Act is a fair type. It reads:

"Any person entitled to payment under the compensation provisions of this act from any employer shall have the same preferential claim therefor against the property of the employer as is now allowed by law for a claim by such person against such employer for unpaid wages or for personal services, such preference to prevail against wage claims of all other employés, not entitled to compensation for injuries."

The citations of the other provisions are found in the foot note.[83]

[78] Ohio Act, § 20-1; see ante § 171, this volume.

[79] Washington Act, §§ 1 and 4; see ante § 124, this volume.

[80] Massachusetts Act, Part IV, § 22; see ante § 303.

[81] Massachusetts Act, Part V, § 3; see ante § 304.

[82] Illinois Act, § 11; see ante § 326, this volume.

[83] California Act, § 22; see ante § 263, this volume. Michigan Act, Part II, § 21; see ante § 355, this volume. Nevada Act, § 12; see ante § 290, this volume. New Hampshire Act, § 10; see ante § 296, this volume. New Jersey Act, § II-22; see ante § 255, this volume. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 209. Rhode Island Act, Article II, § 24, and Article IV; see ante § 367, this volume. Wisconsin Act, §§ 2394-24; see ante § 227, this volume.

§ 427. Assignability and transference of rights of compensation under the acts.—The Massachusetts[84] Act provides that "No agreement by an employé to waive his rights to compensation under this act shall be valid and no payment under this act shall be assignable or subject to attachment, or be liable in any way for debts." The acts of the other eleven states contain substantially identical provisions modified to correspond to the limitations of the acts and restrictions of the general laws of the respective states.[85]

§ 428. Exemption of employers from provisions of act by contracts.—All of the Compensation Statutes excepting those of Ohio, New Hampshire, Kansas and New York contain provisions against the exemption of an employer from complying with the provisions of the same. In this respect the Washington Act provides:

"Section 11. No employer or workman shall exempt himself from the burden or waive the benefit of this act by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void."

Citations of similar provisions of the other statutes will be found in the foot note.[86]

[84] Massachusetts Act, Part I, §§ 20 and 21; See ante, § 304, this volume.

[85] Acts of California, § 22; see ante § 263, this volume. Illinois Act, §§ 11 and 13; see ante § 326, this volume. Kansas Act, §§ 15 and 38; see ante § 292, this volume. Michigan Act, §§ 20 and 21; see ante § 355, this volume. New Hampshire Act, §§ 10 and 11; see ante § 296, this volume. New Jersey Act, § I, par. 6, and § 11, par. 22; see ante § 255, this volume. Nevada Act, no provision. New York Act, N. Y. Laws 1910, ch. 352, Article 14, § 209. Ohio Act, § 35; see ante § 171, this volume. Rhode Island Act, Article II, §§ 22 and 23; see ante § 367, this volume. Wisconsin Act, § 2394-23; see ante § 227, this volume. Washington Act, §§ 10 and 11; see ante § 124, this volume.

[86] California Act, § 2; see ante § 263, this volume. Illinois Act, § 3; see ante § 326, this volume. Massachusetts Act, Part II, § 20; see ante § 303, this volume. Michigan Act, Part II, § 20; see ante § 355, this volume. Nevada Act, § 1-(2); see ante § 290, this volume.

§ 429. Penalties for refusing to comply with provisions of the acts.—Most of the acts impose penalties for their violation. In the Illinois[87] Act it is provided: "Any wilful neglect, refusal, or failure to do the things required to be done by any section, clause, or provision of this act, on the part of the person herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, member of an arbitration board herein provided for, or with the secretary of the Bureau of Labor Statistics or his deputy, in the discharge of the duties herein imposed upon any of them, or any refusal to comply with the terms of the act, shall be deemed a misdemeanor, punishable by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00), at the discretion of the court." A specific illustration of the foregoing is the provision found in the New Hampshire[88] and Michigan[89] Acts for the failure to make reports required by these acts. In the statutes of Kansas,[90] Rhode Island,[91] and in substance in the Ohio[92] Act, it is provided that "Nothing in this act shall affect the liability of the employer or employé to a fine or penalty under any other statute." Such penalties are not found in the California, Nevada, New Jersey and New York Acts.

New Jersey Act, § II, pars. 7 and 8; see ante, § 255, this volume. Rhode Island Act, Art. II, § 22, and Art. IV; see ante § 367, this volume. Washington Act, § 11; see ante § 124, this volume. Wisconsin Act, § 2394-2; see ante § 227, this volume.

87 Illinois Act, § 23; see ante § 326, this volume. Massachusetts Act, Part IV, § 19; see ante § 303, this volume. Washington Act, §§ 16, 9, 8, 6; see ante § 124, this volume. Wisconsin Act, § 2394-17; see ante § 227, this volume.

88 New Hampshire Act, § 12; see ante § 296, this volume.

89 Michigan Act, Part II, § 17, and Part IV, Sec. 8; see ante § 355, this volume.

90 Kansas Act, § 3; see ante § 292, this volume.

91 Rhode Island Act, Art. V, § 2; see ante § 367, this volume.

92 Ohio Act, § 38; see ante § 171, this volume.

§ 430. Attorney's fees.—All of the compensation statutes contain provisions respecting the recovery of attorney's fees for services in connection with the recovery of a judgment on an award under the statutes excepting California, which is silent on the question.

The rule respecting the claim of attorney's fees for services in securing a recovery under the acts of Illinois,[93] Kansas,[94] New Hampshire,[95] New Jersey,[96] New York,[97] and Rhode Island,[98] are substantially the same, namely, no such claim "shall be an enforceable lien thereon unless the amount of the same be approved in writing by a judge of a court of record" or "by the judge of the court where said case was tried," or in absence of a trial "by any judge of the district court * * *." Under the statutes of Massachusetts[99] and Michigan[1] such fees of "attorneys and physicians for services under the acts shall be subject to the approval of the industrial accident board." The Nevada[2] Act provides that "costs of suit and reasonable attorney's fees" shall be allowed. In Ohio[3] on appeals from awards by the board, court costs and a reasonable attorney's fee to claimant's attorney shall be taxed against the losing party by the trial court. On such an appeal in Washington[4] a reasonable attorney's fee is "fixed by the court in the case." Under the Wisconsin[5] Statute no lien for attorney's fees for collection of such claim shall be allowed to exceed

93 Illinois Act, § 11; see ante § 326, this volume.
94 Kansas Act, § 15; see ante § 292, this volume.
95 New Hampshire Act, § 11; see ante § 296, this volume.
96 New Jersey Act, § 1-6; see ante § 255, this volume.
97 New York Act, N. Y. Laws 1910, ch. 352, Art. 14, § 209.
98 Rhode Island Act, Art. II, § 3; see ante § 367, this volume.
99 Massachusetts Act, Part III, § 10; see ante § 303, this volume.
1 Michigan Act, Part III, § 10; see ante § 355, this volume.
2 Nevada Act, § 9; see ante § 290, this volume.
3 Ohio Act, § 36; see ante § 171, this volume.
4 Washington Act, § 20; see ante § 124, this volume.
5 Wisconsin Act, § 2394-22; see ante § 227, this volume.

10 per cent. of the amount of the settlement or payment on account of the claim.

§ 431. Expenses of administration of acts.—The California[6] Act appropriated $50,000 from the state treasury to be used by the Industrial Accident Board to carry out the purpose of the act. The Illinois, Nevada, New York and Rhode Island Acts make no such provision, their administration being under the direction of the courts.

The Kansas[7] Act provides for the fixing of arbitrators' fees by agreement of the parties and in the absence of such agreement "they shall not exceed $10.00 per day, for not to exceed ten days and disbursements for expenses." The arbitrator shall tax the cost of such fees in his discretion and add the amount taxed against the employer to the first payment under the award and note the amount of his fees on the award and shall have a lien therefor on the first payment under the award.

Massachusetts[8] Act provides that the salaries and expenses of the Industrial Accident Board, including the secretary thereof, and an annual allowance not to exceed $10,000 for clerical service, traveling and other necessary expenses. The costs of the administration of the Employers' Insurance Association is made a part of the premium levied against the employers who are members thereof. The salaries of the directors of the association are paid by the commonwealth.

The Michigan[9] Act appropriates $25,000 for the year ending January 30th, 1913, and annually thereafter to be raised by general taxation to pay the expenses of the Industrial Accident Board.

[6] California Act, § 29; see ante § 263, this volume.

[7] Kansas Act, § 26; see ante § 292, this volume.

[8] Massachusetts Act, Part III, § 2, Part IV, §§ 14, 15, 16; Part IV, § 24; see ante § 303, this volume.

[9] Michigan Act, Part IV; Part VI, § 7; see ante § 355, this volume.

The administration of the New Hampshire[10] Act is under the supervision of the Commissioner of Labor, whose salary is paid by the state. The procedure of the act is under the direction of the state courts and to the extent that the entire administration of the act increases the cost of these officials, the costs of administration is paid by the state.

New Jersey[11] Act is administered by the common pleas courts and to the extent that additional expense is thereby added to the cost of their administration it is paid by the state. The special act, chapter 241, par. 1 and 2, 1911, provides for the creation of employers' liability commission to observe the operation of the compensation act and for the payment of the salaries of the secretary and of the clerk and traveling expenses of the commissioners. Said expenses of the commission are paid from the state treasury.

The entire cost of the administration of the Ohio[12] Act is paid by the state and no part of the state insurance fund created by premiums paid by the employers can be used for any other purpose than to pay compensation awards.

The administration of the Rhode Island[13] Act is under the supervision of the superior court and the costs of such administration are taxed by that court.

The Washington[14] Act appropriates $50,000 or so much as is necessary from the state treasury to pay the salaries of the Industrial Insurance Commissioners, traveling and office expenses and all other expenses of the administration of the accident fund.

The Wisconsin[15] Act appropriates from the state

10 New Hampshire Act, §§ 3 and 9; see ante § 296, this volume.

11 New Jersey Act, § II, par. 18; see ante § 255, this volume.

12 Ohio Act, §§ 1 to 15, and 41; see ante § 171, this volume.

13 Rhode Island Act, Art. III, § 15, and Article IV, Sec. 3; see ante § 367, this volume.

14 Washington Act. § 29; see ante § 124, this volume.

15 Wisconsin Act, § 2394-14-30; see ante § 227, this volume.

treasury a sum sufficient to pay the salaries of the members of the Industrial Accident Board, its secretary, necessary clerical help and their actual and necessary expenses while traveling on the business of the board.

CHAPTER XXVI.

WHO ARE WORKMEN WITHIN MEANING OF STATUTE.

Sec.
432. Meaning of term "workman."
433. Partners.
434. Work on shares.
435. Work on shares—Taxicab drivers.
436. Employment in agriculture.
437. Employment by charity organizations for the unemployed.
438. Professional ballplayer a workman.
439. Term "workman" does not include policeman.
440. Casual employment.
441. Employés temporarily lent or hired.
442. Concurrent contracts of service.
443. Effect of unauthorized employment of servant.
444. Independent contractors.
445. Members of employer's family.

§ 432. **Meaning of term "workman."**—The courts have encountered much difficulty in construing the term "workman" in cases where the services performed were not strictly manual in character. It may be said generally that the character of the employé as a workman depends upon the general scope of his employment and is not determined by the mere fact that manual labor is performed as an incident to administrative and other work of a higher character than that intended by the statute. Thus, for example, a skilled chemist who had obtained a scientific degree in a university was engaged by the owner of some chemical works under a written agreement where he was engaged for five years at a yearly salary. By this agreement he bound himself to obey all orders of those in authority and such work as might be allotted to him, but the general effect of the whole agreement was that he was to bring his scientific knowledge to bear for the benefit of the business of his employer. A certain amount of manual

labor was required of him and he spent only about one-sixth of his time in the laboratory. He was fatally injured in an accident and was refused compensation on the ground that he was not a workman but a skilled expert.[1]

In another case the certificated manager of a coal mine, who received a considerable salary payable monthly and a free house and coal was held not a workman though his duty frequently took him into the mine, but he was not required and did not perform any manual labor. The court admitted that this case was very close to the line.[2]

A law writer working at piece work is a workman within the meaning of the law.[3]

A lecturer is not a workman.[4]

§ 433. Partners.—A partner acting as a working foreman for the firm on salary is not entitled to compensation from his partners for injuries received while acting as foreman.[5]

§ 434. Work on shares.—The British Act expressly excludes persons who are remunerated by a share in the profits of the working of a vessel and it is not required that the parties should be solely remunerated by the share in the profits.[6]

The latter view was taken in the case of an engineer on a steam fishing vessel who was injured, and under the contract he was remunerated by a share of the net profits of catches of fish with a guarantee by the owners of the vessel, that should his share fall short of

[1] Bagnall v. Levinstein, 96 L. T. 184, 9 W. C. C. 100.

[2] Simpson v. Ebbw-Vale, etc., Coal Co., 92 L. T. 282, 7 W. C. C. 101.

[3] McKrill v. Howard, 2 B. W. C. C. 460.

[4] Waites v. Franco-British Exhibition Co., 23 T. L. R. 441, 2 B. W. C. C. 199.

[5] Ellis v. Ellis, 92 L. T. 718, 7 W. C. C. 97.

[6] Admiral Fishing Co. v. Robinson, (1910) 3 B. W. C. C. 247.

a specified amount a week they would make it up to that amount.[7]

The rule was applied and compensation denied in a case where a vessel was sailed under the sharing system and the captain was at liberty to take any cargoes to any place he pleased and the owner was to receive one-third of the gross receipts and make necessary repairs to the ship. The captain received the remaining two-thirds and had to pay and feed the crew whom he engaged, and pay harbor dues. The vessel went down with all hands.[8]

In another case a member of a crew of a fishing vessel was injured while the vessel was at sea and engaged in fishing. The method of remuneration was settled by an award made by a conciliation board. It was as follows: From the gross price of the fish sold after any trip the owners of the vessel were entitled to deduct commission, discount and other expenses pertaining to the trip. The net balance remaining was then divided into shares of which injured seamen received one. This was held a case where the seamen came within the express terms of the act and being remunerated by a share in the profits was excluded and this, although he was allowed a specified daily wage when employed in port in cleaning and making repairs on the vessel.[9]

In another case it was held that a member of the crew of a trawler who was remunerated by a share in the profits of the working of a vessel, was interested in the totality of the adventure, and not merely in one part of it. He voluntarily accepted, with the consent of the master of the vessel the duty of stowing fish boxes

[7] Admiral Fishing Co. v. Robinson, 3 B. W. C. C. 247.

[8] Boon v. Quance, 3 B. W. C. C. 106; see also Hughes v. Postlethwaite, (1910) 4 B. W. C. C. 105.

[9] Aberdeen, etc., Fishing Co. v. Gill, 45 Scotch L. R. 247, 1 B. W. C. C. 274.

upon another boat which collected the fish from a fleet of trawlers and during this work sustained a personal injury. It was decided that this act was voluntarily done in his character of a share fisherman and that it was not a new employment.[10]

But the injured person will be held to sustain the relation of a workman where there is an entire absence of any proof of partnership of joint adventure in the course of trading.[11]

Thus in one of the cases the evidence showed that the master had paid wages to some of the crew in a public house and after some delay on his return to the vessel fell into the dock and was drowned. The widow said that her husband was a servant of the owners and she brought books showing that her husband received two-thirds of the gross freight out of which he paid the disbursements and expenses of the vessel; one-third of the gross freight he remitted to the owners. The owners called no evidence as to the relationship between the master and himself. It was held that a contract of service existed between the parties and not a contract of sharing.[12]

In another case the seaman was similarly remunerated. The boat was maintained by the owner and the seaman was the subject to his orders. When not required by the owners the boat performed services for other fishermen and the rates charged were the same as those paid by the owner to the boat for similar work. When the sailor was not employed afloat, the owner, whenever possible, supplied him with work ashore for which he paid him wages. No part of the capital was supplied by the injured seaman nor was he liable for

[10] Whelan v. Great Northern, etc., Fishing Co., 100 L. T. 912, 2 B. W. C. C. 235.

[11] Carswell v. Sharp, 47 Scotch L. R. 335, 3 B. W. C. C. 552; Jones v. The Alice & Eliza, 3 B. W. C. C. 495.

[12] Jones v. The Alice & Eliza, 3 B. W. C. C. 495.

any loss that might have occurred. It was held that he was not a partner but a workman and that the boat itself was not a fishing boat within the meaning of the act although it was engaged in the fishing industry in carrying the cargo between the curing stations and vessels lying off shore.[13]

§ 435. Work on shares—Taxicab drivers.—A taxicab driver who takes out a cab under a contract to pay over to the owners a certain per cent. of his daily takings and retaining the balance less the price of the gasoline which he purchases from the cab owners is not a "workman" within the meaning of compensation laws. The transaction is one of bailment and his relation is that of bailor.[14]

§ 436. Employment in agriculture.—The courts are not inclined to put a close construction on employment in agriculture within the meaning of the compensation act of 1900. One of the courts has held that a carpenter employed all the time on a farm was a worker in agriculture where some of his time was spent in the fields during the harvest season and about three months of each year was spent as game keeper for his employer.[15]

§ 437. Employment by charity organizations for the unemployed.—One is a workman though his employment has in it some of the elements of philanthrophy. Accordingly, it has been held that a distress committee under the unemployed workman act of 1905, which provided temporary employment for an applicant, was liable for injury to such applicant in the course of employment furnished him by the committee and

[13] Jamieson v. Clark, 46 Scotch L. R. 73, 2 B. W. C. C. 228.

[14] Doggett v. Waterloo Taxicab Co., 3 B. W. C. C. 371; Bates-Smith v. General Motor Cab Co., 4 B. W. C. C. 249.

[15] Smith v. Coles, 93 L. T. 754, 8 W. C. C. 116.

that he was not to be denied this compensation by the fact that during incapacity he received poor relief.[16]

In such a case Moulton, L. J., said, "I am clear that the intention of the legislature was to constitute this Central body as a body which was empowered to employ at wages those who were in a destitute condition. They did employ this man at wages, and the scheme of the workman's compensation act, to my mind makes compensation for accidents almost inseparable from wages and certainly inseparable from a contract of service which I think existed here."[17]

In another case a blind man was injured while employed in the industrial department of a blind institution. This department was supported partly by charitable contributions. The institution gave the man his board, lodging and five shillings a month and received on his account charitable and parochial assistance which came to a little less than the amount expended on him. It was held that the man was a workman and entitled to compensation for injuries sustained by him in the department.[18]

But it is essential to the right to compensation that the applicant should establish a contract of service between himself and the organization sought to be charged.[19]

This element was held to be lacking in the case of a dispensary medical officer employed by Guardians of Poor at a specified yearly salary who sustained fatal injury while engaged in the discharge of his duties.[20]

[16]Gilroy v. Mackie, 46 Scotch L. R. 325, 2 B. W. C. C. 209; Porton v. Central Unemployed Body, 100 L. T. 102, 2 B. W. C. C. 296.

[17]Porton v. Central Unemployed Body, 100 L. T. 102, 2 B. W. C. C. 296.

[18]Macgillivray v. Northern Counties Institute, 48 Scotch L. R. 811, 4 B. W. C. C. 429.

[19] Burns v. Manchester, etc., Mission, 125 L. T. J. 336, 1 B. W. C. C. 305.

[20]Murphy v. Enniscorthy Board of Guardians, 42 Ir. L. T. 246, 2 B. W. C. C. 291.

A nurse employed by an association whose object was to provide duly qualified nurses to attend on the sick in a certain neighborhood has been held not a servant or workman of the association.[21]

§ 438. Professional ballplayer a workman.—The English Court of Appeal holds that a professional football player engaged by a club under contract is a workman within the meaning of the compensation act, and is entitled to compensation for injuries sustained by him while playing for the club. In this case Farwell, L. J., said: "The appellants have taken two points. First, they say that this was no contract of service because the respondent was at liberty to use his own intelligence in playing the game. I think that is no answer. For a man may be employed in a contract of service where he does so exercise his intelligence. If there were no duty to obey then there might well be no contract of service. But the respondent not only agreed to conform to the rules of the football association but he agreed to obey the general instructions of the club. I cannot doubt that he had also to obey the instructions of the captain—the delegate of the club—given during the progress of the game. Then it is said that this is not an agreement for work and that therefore the respondent was not a workman. But that which is a sport to an amateur may well be work to a professional. It is impossible to give effect to this contention."[22]

§ 439. Term "workman" does not include policeman.—Members of a police force do not share in the benefits of the compensation act and this is true though the injuries are received while the policeman is acting as a member of the fire brigade, which act is a part of his duty as a policeman.[23]

[21] Hall v. Lees, (1904) 2 K. B. 602.

[22] Walker v. Crystal Palace Football Club, 3 B. W. C. C. 53.

[23] Sudell v. Blackburn Corporation, 3 B. W. C. C. 227.

§ 440. Casual employment.—The word "workman" in the British Act of 1906 "does not include a person whose employment is of a casual nature and who is employed otherwise than for the purpose of the employer's trade or business." In construing this provision the court of appeal has said, "The employer referred to in the second limb of this sentence is the person giving the employment referred to in the first limb. The effect of the second limb of the sentence is that if the man be employed for the purposes of a trade or business, the employer is liable to him, even though the employment be of a casual nature." The act distinctly intends that where employment is in a trade or business the liability should be limited to the case of servants whose employment is not casual but stable.[24]

The employment of a window cleaner at irregular intervals to clean the windows of a dwelling house although that same person may have been engaged for a period of some years, has been held a casual employment only.[25]

Under this provision in order to entitle one to compensation, it is essential first that the employment should not have been of a casual nature; and second that it was for the purposes of the business of the employer. Both these conditions must be present.[26]

"The meaning of 'casual employment' is best arrived at by considering its opposite."[27]

The employment of a carpenter making repairs on a building, to cut down trees on the premises after the employment was finished has been held an employment of a casual nature, having nothing to do with the trade or business of the employer.[28]

[24]Hill v. Begg, 24 T. L. R. 711, 1 B. W. C. C. 320.
[25]Rennie v. Reid, 45 Scotch L. R. 814, 1 B. W. C. C. 324.
[26]Rennie v. Reid, 45 Scotch L. R. 814, 1 B. W. C. C. 324.
[27]McCarthy v. Norcott, 43 Ir. L. T. 17, 2 B. W. C. C. 279.
[28]McCarthy v. Norcott, 43 Ir. L. T. 17, 2 B. W. C. C. 279.

Though the work is of a casual nature compensation will be allowed where the work is for the purpose of the employer's trade or business.[29]

This was the case where a farmer required some tiles put on the roof of his granary and employed a bricklayer to put them on and during the progress of the work the bricklayer sustained injuries. Compensation was awarded.[30]

A similar conclusion was reached in a case where a woman was employed at a house on Friday in each week and on Tuesday in alternate weeks and she suffered personal injury in the course of and arising out of such employment. This employment was not casual but stable as well as periodic.[31]

§ 441. Employés temporarily lent or hired.—In section 13 of the British Act it is provided that where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall be deemed to continue to be the employer of the workman whilst he is working for that other person. In one of the cases the respondents were owners of a threshing machine which they let out on hire to farmers. They were bound by statute to have three men to attend the machine, two to look after the engine and a third as a "road man." At farms the road man acted as assistant in the threshing, being paid for this by the farmer and not by the respondents, within the meaning of this section. While engaged in the threshing the applicant was injured, and claimed com-

[29]Blyth v. Sewell, 126 L. T. J. 552, 2 B. W. C. C. 476.

[30]Blyth v. Sewell, 126 L. T. J. 552, 2 B. W. C. C. 476. See also Johnston v. Monasterevan, etc., Store Co., 42 Ir. L. T. 268, 2 B. W. C. C. 183.

[31]Dewhurst v. Mather, 24 T. L. R. 819, 2 B. W. C. C. 328. See also Bargewell v. Daniel, 123 L. T. J. 487, 9 W. C. C. 142 (whitewasher).

pensation from the respondents, who denied liability, stating the farmer was employer. It was held that the respondents were the employers.[32]

The owner of a vessel and not the charterer is the employer of members of the crew where the owner is bound to provide and pay the crew and alone has the power to dismiss the members of the crew.[33]

A lecturer at an exhibition is not a workman within the meaning of the act.[34]

§ 442. Concurrent contracts of service.—It is provided by the British Act of 1906 that where a workman has entered into concurrent contracts of employment with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident. In estimating the compensation to which the dependents of a workman killed by accident are entitled when such workman has worked continuously for three years for the same employer no account can be taken of the wages earned by him under concurrent contracts with other employers.[35]

In one of the cases the applicant was injured at a laundry, where she earned a certain sum a week. She also received from another person a small sum a week for teaching children to play the piano at their own home, where she went for that purpose every Saturday. It was held that the applicant's arrangement for teach-

[32]Reed v. Smith, 3 B. W. C. C. 223. See also Boswell v. Gilbert, 127 L. T. J. 146, 2 B. W. C. C. 251.

[33]Mackinnon v. Miller, 46 Scotch L. R. 299, 2 B. W. C. C. 64.

[34]Waites v. Franco-British Exhibition, 25 T. L. R. 441, 2 B. W. C. C. 199.

[35]Buckley v. London & India Docks, (1909) 127 L. T. J. 521, 2 B. W. C. C. 327.

ing the piano was not a "contract of service," that the applicant, therefore, had not entered into concurrent contracts of service within the meaning of the law and compensation was awarded on the basis of the laundry work. The question whether the applicant, in her arrangement for teaching the piano, was a workman under a contract of service was a question of fact. And it is believed that an usher in a private school or a teacher in a provided or non-provided school, or a nursery governess, would, under ordinary circumstances, be entitled to claim the benefit of the act.[36]

§ 443. Effect of unauthorized employment of servant.—It is essential to the servant relation that there should have been a valid contract of employment. Where the employment of a servant is delegated to another servant, the one so employed is not, according to an English decision, a servant unless the employing servant has conformed to his master's instructions. Thus, where a servant is directed by his master to employ a boy and instead he employs an old man the latter is not strictly a servant of the master within the meaning of the compensation law.[37]

§ 444. Independent contractors.—The term "workman" does not include an independent contractor for work wherever done.[38]

This is the status of one employed to a particular piece and in the performance of the work he employs his own help.[39]

[36] Simmons v. Health Laundry Co., (1910) 1 K. B. 543, 102 L. T. 210, 3 B. W. C. C. 200.

[37] McClelland v. Todd, 43 Ir. L. T. J. 75, 2 B. W. C. C. 472.

[38] Simmons v. Faulds, 17 T. L. R. 352, 3 W. C. C. 169; Evans v. Penwylt, etc., Brick Co., 18 T. L. R. 58; Vamplew v. Parkgate, etc., Steel Co., (1903) 1 K. B. 851; Chisholm v. Walker, (1908) 46 Scotch L. R. 24, 2 B. W. C. C. 261; Maynard v. Robinson, 89 L. T. 136; Boyd v. Doharty, 46 Scotch L. R. 71.

[39] Vamplew v. Parkgate, etc., Steel Co., (1903) 1 K. B. 851; Chisholm v. Walker, 46 Scotch L. R. 24, 2 B. W. C. C. 261.

The injured party was held not an independent contractor in a case where many of the elements of the relation appeared but the employers specially agreed to compensate such person in case of injury by accident.[40]

§ 445. Members of employer's family. The English compensation act excludes from its benefits, members of the family of the employer dwelling in his house. The term "member of a family" includes a son, and he is considered as dwelling in his employer's house, though at the time of receiving his injuries he is absent from his home at a distant point on his father's business.[41]

[40] Evans v. Penwylt, etc., Brick Co., 18 T. L. R. 58, 4 W. C. C. 101.

[41] McDougall v. McDougall, 48 Scotch L. R. 315, 4 B. W. C. C. 373.

CHAPTER XXVII.

INJURIES FOR WHICH COMPENSATION ALLOWED.

Sec.
446. Meaning of term "accident".
447. Inference that injury a result of accident.
448. Refusal to undergo a surgical operation.
449. Injury from elements—Heat, cold and lightning.
450. Death from anaesthetic administered in operation.
451. Nervous shocks.
452. Incapacity through nervousness—Simulation.
453. Poisoning.
454. Apoplexy as an accident.
455. Injuries from inhalation of gases.
456. Injuries to sight.
457. Heart injuries.
458. Strains and ruptures.
459. Gradual paralysis.
460. Injury while undergoing epileptic fit.
461. Occupational diseases—Apportionment between different employers.
462. Injuries from violence at the hands of a third person.
463. Acceleration of existing disease by accident.
464. Defective medical treatment.
465. Extraterritorial effect of compensation laws.
466. Whether injury must be natural or proximate cause of accident.
467. Wilful misconduct.
468. Wilful misconduct—Intoxication.
469. Wilful misconduct—Misrepresentation as to age.
470. Dismissal of incapacitated person for his own misconduct.
471. Suicide while insane.

§ 446. **Meaning of term "accident."**—The word "accident" in the English statute is taken in its popular and ordinary sense. It denotes or includes any unexpected personal injury resulting to the workman in the course of his employment from any unlooked for mishap or occurrence.[1]

Said Lord Lindley in the leading case of Fenton v.

[1]Fenton v. Thorley, (1903) A. C. 443. See also Roper v. Greenwood, (1900) 83 L. T. 471; Stewart v. Wilson, etc., Co., (1903) 5 F. 120; Hensey v. White, (1900) 1 Q. B. 481, overruled.

Thorley: "The word 'accident' is not a technical legal term with a clearly defined meaning. Speaking generally, but with reference to legal liabilities, an accident means any unintended and unexpected loss or hurt apart from its cause; and if the cause is not known, the loss or hurt itself would certainly be called an accident. The word 'accident' is also often used to denote both the cause and the effect, no attempt being made to discriminate between them. The great majority of what are called accidents are occasioned by carelessness; but for legal purposes it is often important to distinguish careless from other unintended and unexpected events."[2]

The term "accident" used in insurance policies is used in its ordinary and popular sense, as meaning, happening by chance; unexpectedly taking place; not according to the usual course of things; or not as expected. If the result is such as follows from ordinary means voluntarily employed, in a not unusual or unexpected way, it can not be called a result effected by accidental means.[3]

§ 447. Inference that injury a result of accident.— The law does not require that the fact of the accident should be established by direct evidence. It may be established by circumstantial evidence which raises an inference that the injury was due to accident arising out of and in course of employment.[4]

Thus an engineer who was employed on board a small tug was last seen asleep in his bunk at five o'clock in the morning. One hour later he had disappeared, leaving his working clothes lying at the side of his bunk. The tug was to commence towing at seven o'clock and steam was

[2]Fenton v. Thorley, (1903) A. C. 443, K. B. 789.

[3]Mutual Accident Asso. v. Barry, 131 U. S. 100, 33 L. ed. 60, 9 Sup. Ct. 755.

[4]Mackinnon v. Miller, 2 B. W. C. C. 64; Astley v. Evans, (1911) 104 L. T. 373, 4 B. W. C. C. 209; Mitchell v. Glamorgan Coal Co., 23 T. L. R. 588, 9 W. C. C. 16; Wright v. Kerrigan, 45 Ir. L. T. 82, 4 B. W. C. C. 432; The Swansea Vale v. Rice, 104 L. T. 658, 4 B. W. C. C. 298.

ordered to be got up for that hour. He was entitled to be on deck between these hours. Two days afterwards, his body, clad in his ordinary sleeping clothes was found near the place where the tug had been moored on the morning in question. The engineer was unable to swim. In the opinion of the doctor who examined the body, death was due to drowning, but there was no direct evidence as to how the deceased had met his death. It was held that the arbiter was entitled to draw the inference of fact that the workman had accidentally fallen overboard the boat and drowned and that the accident arose out of and in the course of his employment.[5]

"The question is whether the finding is justified by a legitimate inference from the facts proved. The Judge is entitled to draw an inference, but he cannot arrive at it by guess or conjecture; and the onus is, in the first instance, on the applicant to furnish evidence from which an inference in the applicant's favor can be legitimately drawn."[6]

§ 448. Refusal to undergo a surgical operation.— It may be said generally that where a workman refuses to undergo a reasonable and safe operation which will relieve or remove his incapacity, his continued inability to work at his trade is the result of his refusal of remedial treatment and not the result of the original accident.[7]

The employer in such a case has the burden of showing that the operation would have accomplished its purpose.[8]

[5]Mackinnon v. Miller, 2 B. W. C. C. 64.

[6]Fennah v. Midland, etc., R. Co., (1911) 45 Ir. L. T. 192, 4 B. W. C. C. 440. See also Marshall v. The Wild Rose, 100 L. T. 739, 2 B. W. C. C. 76, 3 B. W. C. C. 514; Charles v. Walker, 25 T. L. R. 609, 2 B. W. C. C. 5.

[7]Warncken v. Moreland, 1 K. B. 184. See also Donnelly v. Baird, 45 Scottish L. R. 394; Paddington Borough Council v. Stack, 2 B. W. C. C. 402; Rothwell v. Davies, 19 T. L. R. 423; O'Neill v. Ropner, 42 Ir. L. T. 3, 2 B. W. C. C. 334.

[8]Marshall v. Orient Navigation Co., (1910) 1 K. B. 79; Carroll v. Gray, 47 Scotch L. R. 646, 3 B. W. C. C. 572.

The employé may justify his refusal on the ground that, in good faith, he followed the advice of his own doctor whose honesty and competency are not impeached and this although the balance of the medical testimony given at the hearing was to the effect that the operation was one which might reasonably and properly have been performed.[9]

The employer has the burden of proof that the refusal of the workman was unreasonable.[10]

§ 449. Injury from elements—Heat, cold and lightning.—The question often arises as to whether injuries from heat, cold and lightning can be classified as accidental injuries. The English courts generally take the view that frost bites are not accidental injuries to persons in climates where such injuries may reasonable be anticipated and may be obviated, by care in the matter of clothing and exercise. In a severe climate, frost bites are a normal incident to which everybody is subject.[11]

Sunstroke is classified as an accidental injury where the employé sustains such injury when set to work at a task which peculiarly exposes him to such injury, as where, for example, a common sailor is set to work painting a vessel on tropical seas where he gets not only the direct rays of the sun but also the reflected rays from the side of the ship.[12]

The rule is the same as to lightning. Injury from a stroke of lightning may be classified as an accident where the employé is put to work at an exposed place, as, for example, at the top of a tall building in course of construction.[13]

[9] Fulton v. The Majestic, (1909) 2 K. B. 54. See also Ruabon Coal Co. v. Thomas, 3 B. W. C. C. 32; Tutton v. The Majestic, 100 L. T. 644, 2 B. W. C. C. 346.

[10] Hays Wharf v. Brown, 3 B., 84—C. A.

[11] Warner v. Couchman, (1911) 1 K. B. 351, 4 B. W. C. C. 32; Karemaker v. Corsican, 4 B. W. C. C. 295.

[12] Morgan v. Zenaida, (1909) 25 T. L. R. 446, 2 B. W. C. C. 19.

[13] Andrew v. Failsworth Industrial Soc., (1904) 90 L. T. 611. But

Generally sunstroke in other situations is regarded as a disease of the brain.[14]

Heatstroke, from working in front of a furnace is considered an accidental injury. "Such a stroke is an unusual effect of a known cause, often, no doubt, threatened, but generally averted by precautions which experience, in this instance, had not taught. It was an unlooked-for mishap in the course of his employment. In common language, it was a case of accidental death. I feel that in construing this act of Parliament, as in other cases, there is a risk of frustrating it by excess of subtlety, which I am anxious to avoid."[15]

§ 450. Death from anaesthetic administered in operation.—It is the holding of one of the cases that the unexpected death of a workman from the effects of an anaesthetic administered in the course of treatment of an accidental injury was a death from accident. The test of the question whether death was caused by accident in such a case is whether the operation was a reasonable step to be taken to obviate the consequences of the accident.[16]

§ 451. Nervous shock.—It would certainly seem that a nervous shock due to an accident is as much a personal injury due to accident as any other external physical injury, and this is the view of the English courts in passing upon this form of injury. Under these decisions when a man in the course of his employment goes to a place and sustains a nervous shock producing physiological injury which is not a mere transient emotional impulse, he sus-

see Kelly v. Kerry County Council, (1908) 42 Ir. L. T. 23, where the stroke was held not accidental, because injured person was on the ground and not specially exposed.

[14]Dozier v. Fidelity, etc., Co., 45 Fed. 446, 13 L. R. A. 114.

[15]Ismay v. Williamson, (1908) 42 Ir. L. T. 213, 1 B. W. C. C. 232. See Johnson et al. v. Torrington, (1909) 3 B. W. C. C. 68.

[16]Shirt v. Calico Printers' Assn., (1909) 2 K. B. 51, 100 L. T. 740.

tains an accident arising out of and in the course of his employment.[17]

"The effects of an accident are at least twofold; they may be merely muscular effects—they almost always must include muscular effects—and there may also be and very frequently are effects which you may call mental or nervous or hysterical. * * * The effects of this second class, as a rule, arise as directly from the accident which the workman suffered as the muscular effects do; and it seems to me entirely a fallacy to say that a man's right to compensation ceases when the muscular mischief is ended, but the nervous or hysterical effects still remain."[18]

Accordingly compensation was awarded to a workman incapacitated by reason of nervous shock caused by seeing and helping a fellow workman who sustained a shocking injury which resulted in his death.[19]

§ 452. Incapacity through nervousness—Simulation.—As a general rule a workman is entitled to claim compensation so long as the nervous effects remain and produce total or partial incapacity for work.[20]

But the nervousness intended is a real and not a fictitious nervous condition. It is not sufficient that an injured person did not return to his work because of a dread that he might injure himself again.[21]

Compensation may not be awarded for nervousness which an average, reasonable man could overcome. "It is one of the most difficult tasks we have in the working of the act dealing fairly with employers and men, to deal with cases which are partially neurasthenic, and where

[17] Yates v. South Kirby, etc., Colliers, 3 B. W. C. C. 418; Eaves v. Blaenclydach Colliery Co., (1909) 2 K. B. 73, 100 L. T. 747, 2 B. W. C. C. 329.

[18] Eaves v. Blaenclydach Colliery Co., (1909) 2 K. B. 73, 100 L. T. 747, 2 B. W. C. C. 329.

[19] Yates v. South Kirby, etc., Collieries, 3 B. W. C. C. 418.

[20] Eaves v. Blaenclydach Colliery Co., 100 L. T. 747, 2 B. W. C. C. 329.

[21] Pimms v. Pearson, 2 B. W. C. C. 489, 126 L. T. J. 361.

the man does not desire to go back to work for a variety of reasons which have really nothing much to do with the original accident."[22]

§ 453. Poisoning.—It is the theory of the later English cases that injuries due to poison absorbed in the course of employment are accidental injuries.[23]

This was held to be the case where a workman employed in a wool combing factory where he handled wool taken from anthrax infected sheep, contracted anthrax by contact with the wool.[24]

The earlier cases took a narrower view.[25]

In a lead poisoning case the award was refused on a ground of impossibility of showing when the accident occurred.[26]

In any case it would seem necessary to establish very clearly the fact that the poisoning was an accidental injury.[27]

Thus where the injury was caused by the pressure of a boot which became too tight for the workman it was held that the resulting poisoned condition of the foot was not an accident.[28]

In one of the cases a scullion at a hotel was subject to a skin disease of which he had no knowledge and was

[22]Turner v. Brooks, 3 B. W. C. C. 22. See also Furness v. Bennett, 3 B. W. C. C. 195.

[23]Higgins v. Campbell, (1904) 1 K. B. 328; affd. in (1905) A. C. 230; Haylett v. Vigor, 1 B. W. C. C. 282; Groves v. Burroughes, 4 B. W. C. C. 185; Thompson v. Ashington Coal Co., 3 W. C. C. 21; Dotzauer v. Strand, Palace Hotel, 3 B. W. C. C. 387; Bailey v. Interstate Casualty Co., 8 App. Div. (N. Y.) 127.

[24]Higgins v. Campbell, (1904) 1 K. B. 328; affd. in (1905) A. C. 230.

[25]Walker v. Lilleshall, (1900) 81 L. T. 769; Steel v. Cammell, (1905) 2 K. B. 232, 7 W. C. C. 9.

[26]Steel v. Cammell, (1905) 2 K. B. 232, 7 W. C. C. 9. See also Williams v. Duncan, 1 W. C. C. 123.

[27]White v. Sheepwash, 3 B. W. C. C. 382; Hugo v. Larkins, 3 B. W. C. C. 228.

[28]White v. Sheepwash, 3 B. W. C. C. 382.

put to work at washing up crockery in a tank containing hot water, soft soap, and caustic soda. This caused his hands to become greatly inflamed and his nails to come off and disabled him for several months. It was held that this was an accident; "the mere circumstance that a perfectly healthy man would have met with it, is no answer at all."[29]

§ 454. Apoplexy as an accident.—A stroke of apoplexy brought on by over-exertion in the course of one's employment may amount to an accident within the meaning of compensation laws, but the evidence that the stroke was brought on by over-exertion must be clear. In one of the cases it appeared that a collier died of apoplexy during working hours in a mine. The majority of the doctors said that his arteries were very much diseased and that his apoplexy might have come upon him when asleep or when walking about or when over-exerting himself. The work of the collier on the day he received the stroke was not of such character as to cause any unusual strain. The court held that as the evidence as to the cause of the death was equally consistent with an accident and with no accident, and the burden of proving that it was due to accident rested on the applicants, such burden had not been discharged by them.[30]

§ 455. Injuries from inhalation of gases.—The inhalation of gases from an explosion in a coal mine which produced pneumonia was held an accident authorizing the award of compensation when this result was unusual and the most severe effects from this cause noticed in a long period of time had been nausea and headache.[31]

But compensation was denied in a case where a

[29] Dotzauer v. Strand, Palace Hotel, 3 B. W. C. C. 387. See also Cheek v. Harnsworth, 4 W. C. C. 3.

[30] Barnabas v. Bersham Colliery Co., 4 B. W. C. C. 119.

[31] Kelly v. Anchenlea Coal Co., (1911) 48 Scotch L. R. 768.

workman contracted enteritis from inhaling sewer gas in the course of his employment in sewers. This was not an accident within the meaning of the law.[32]

The case is stronger against accidental injury where the evidence is not clear that the injury resulted from the inhalation of gases.[33]

§ 456. Injuries to sight.—An accident within the meaning of the compensation laws was sustained by a workman who lost his sight from being struck by a piece of steel chipped off from a plate which he was chiseling. This was an unusual happening. Said Mr. Justice Martin "here the cause of the flying piece entering the eye was that the workman did not hold his chisel in exactly the right angle to make the piece fly clearly, or because of some undue hardness or defect in the metal or in the chisel, or for other causes which might be suggested which would be equally accidental, for 'as Lord Robertson said in Fenton v. Thorley (1903, A. C. 433, 5 W. C. C. 1), the word accident is not made inappropriate by the fact that the man hurt himself.' "[34]

But the cases are not harmonious. In another case a different conclusion was reached. In this case a lady's maid in the course of her employment was sewing in her employer's nursery which was lighted by electric light. A cockchafer flew into the room by an open window and so alarmed her that she involuntarily hit her eye with her hand and it permanently injured her eyesight. She was denied compensation on the ground that the injury did not arise out of her employment.[35]

§ 457. Heart injuries.—There is no case of accident within the compensation laws where the incapacity from a cardiac breakdown is due to the fact that the

[32]Broderick v. London County Council, (1908) 2 K. B. 807.
[33]Eke v. Hart-Dyke, (1910) 2 K. B. 677.
[34]Neville v. Kelly, (1907) 13 B. C. 125. 1 B. W. C. C. 432.
[35]Craske v. Wigan, (1909) 2 K. B. 635.

work on which the employé had been engaged for some time was too heavy for him. This is a case where repeated excessive exertion strains the heart until finally it is over-strained, and is not strictly an unlooked-for mishap or occurrence.[36]

So, in a case where a workman who had been suffering for some years from progressive heart disease died while hurrying to a railroad station with a parcel for his employer, it was held that his death was due to the disease and not to an accident.[37]

But the House of Lords held the case one of accident where a workman suffering from an aneurism in so advanced a state of disease that it might have burst at any time, ruptured the aneurism while tightening a nut with a spanner, which was quite an ordinary act in his work, and did not involve excessive strain. An aneurism is to be understood as an unnatural or abnormal dilation of an artery. The condition of the workman was held not decisive of the question of accident. According to Lord Loreborn, "an accident arises out of the employment when the required exertion producing the accident, is too great for the man undertaking the work, whatever the degree of exertion or the condition of health."[38]

§ 458. Strains and ruptures.—With good reason strains sustained by employés of normal health in raising unusual weights in the course of employment are generally regarded as accidental injuries.[39]

It has been very pertinently observed by an English court: "A man injures himself suddenly and unexpectedly by throwing all his might and all his strength and all his energy into his work by doing his best and utmost for his employer, not sparing himself or taking

[36]Coe v. Fife Coal Co., 2 B. W. C. C. 8.

[37]O'Hara v. Hayes, 44 Ir. L. T. 71, 3 B. W. C. C. 586.

[38]Clover v. Hughes, (1910) A. C. 242, 3 B. W. C. C. 275.

[39]Fenton v. Thorley, (1903) 89 L. T. 314; Boardman v. Scott, (1901) 85 L. T. 502; Purse v. Hayward, 1 B. W. C. C. 216.

thought of what may come to him, and then he is to be told that his case is outside the act because he exerted himself deliberately and there was an entire lack of fortuitous element. I cannot think that right."[40]

In one of the cases, a workman while engaged in his employment had an attack of cerebral hemorrhage as the result of exertion. The work was being performed in the usual mode. He was put to bed where he remained for four days when a second attack occurred, resulting in permanent disablement. His arteries were in a degenerate condition rendering an attack of hemorrhage more likely. It was held that the workman had sustained his injury by an accident arising out of his employment within the meaning of the compensation law.[41]

Ruptures resulting from lifting heavy objects are generally held fortuitous and unexpected events, in other words, accidents.[42]

Proof of an accident from this cause must be clearly established and not left to inference.[43]

In one of the English cases, a workman who was slightly ruptured at the time he entered employment, in the course of his work had to subject himself to an unusual though not a unique strain. The result of this strain was to increase the rupture and incapacitate the workman from following his employment. This was held an accident although it could be said with certainty to be an untoward or unexpected event.[44]

§ 459. Gradual paralysis.—In one of the English cases it was shown that a workman gradually acquired

[40]Fenton v. Thorley, (1903) 89 L. T. 314.

[41]McInnes v. Dunsmuir, 45 Scotch L. R. 804. But see Hensey v. White, 81 L. T. 767, 16 L. T. 64.

[42]Timmins v. Leeds Forge Co., 16 T. L. R. 520.

[43]Former v. Stafford, 4 B. W. C. C. 223; Walker v. Murrays, 46 Scottish L. R. 741, 4 B. W. C. C. 409.

[44]Fulford v. North Fleet Coal, etc., Co., 1 B. W. C. C. 222.

paralysis of his right leg through the strain of riding a heavy carrier tricycle for his employers. At the end of five years the condition so increased as to incapacitate him from work. The paralysis was declared not a personal injury but an accident by a breakdown in the course of labor. "It was a breakdown from overwork; waste over-running repair is not an accident."[47]

§ 460. Injury while undergoing epileptic fit.—In one of the cases arising under the compensation act of 1897, a workman, employed in unloading coal from a ship, who was required in the course of his duties to stand in the open hatchway through which the coal was being brought up from the hold, was seized with an epileptic fit while at work and fell into the hold and was severely injured. It was held that regard must be had to the proximate cause of the accident resulting in the injury, which was to be found in the necessary proximity of the workman to the hatchway and that the accident arose out of, as well as, in the course of his employment and that he was entitled to compensation.[48]

§ 461. Occupational diseases—Apportionment between different employers.—Where an occupational disease is contracted by gradual process and during the twelve months previous to the incapacity, the workman had been employed by two employers in the absence of any special risk or degree of the poison, in either employment, the period of employment by each employer is the basis of calculating the proportion of the compen-

waste over-running repair is not an accident.[49]

The occupational disease must be connected with employment. There cannot be an allowance of compensation where the disease is in no way connected with the employment or the injury.[49a]

[47] Walker v. Hockney, 2 B. W. C. C. 20.

[48] Wilkes v. Dowell, (1905) 2 K. B. 225.

[49] Lees v. Waring, 127 L. T. J. 495, 2 B. W. C. C. 474.

[49a] London, etc., R. Co. v. Taylor, (1910) 4 B. W. C. C. 11.

§ 462. **Injuries from violence at the hands of a third person.**—It is generally held that an injury caused by an act of violence at the hands of a third person while the employé is engaged in the duties of his employment is an accidental injury for which compensation may be awarded.[50]

This was the rule in a case where a paymaster was robbed of his employer's funds and killed, while in the performance of his duty;[51] where a gamekeeper while in the discharge of his duties was attacked by a poacher and injured;[52] where an engineer was killed through the act of a boy who threw a stone from a bridge under which a train was passing.[53]

But this principle has been held without application to injuries sustained by workmen as the result of attacks made by strikers.[54]

Neither was it held applicable to injuries to a sailor on board his ship in a foreign port, who was struck by a stray bullet shot by a revolutionist.[55]

Fellow workmen causing injury to an employé are liable to indemnify employers under the compensation act, though the injury was a result of a breach of law and the workmen were convicted and fined for such breach.[56]

§ 463. **Acceleration of existing disease by accident.**—It is the rule that if a man who is already afflicted with an infirmity, is injured by an accident and thereby incapacitated from carrying on the work which he was

[50]Anderson v. Balfour, (1910) 44 Ir. L. T. 168, 3 B. W. C. C. 588; Nisbet v. Rayne, (1910) 2 K. B. 689, 3 B. W. C. C. 507; Challis v. London, etc., R. Co., (1905) 2 K. B. 154.

[51]Nisbet v. Rayne, 3 B. W. C. C. 507.

[52]Anderson v. Balfour, 45 Ir. L. T. 168, 3 B. W. C. C. 588.

[53]Challis v. London, etc., R. Co., (1905) 2 K. B. 154.

[54]Murry v. Denholm, (1911) 48 Scotch L. R. 896.

[55]MacShane v. Harrison, Liverpool County Court, March, 1912 (unreported).

[56]Gibson v. Dunkerly, 3 B. W. C. C. 345.

previously fit to do, then that was an injury which resulted from the accident, even though the accident would not have incapacitated him had he been otherwise sound.[57]

This principle was applied in a case where a miner in the course of his employment received an injury to his right eye which in the absence of an operation rendered the eye almost useless and the accident did not affect the left eye, but this eye was at the time of the accident, slightly affected by the miner's disease called nystagnus, which apparently got worse and rendered the miner unable to work at his former work. The miner was allowed compensation.[58]

So a workman has been held entitled to compensation where he was in a debilitated condition, by reason of which he caught chronic bronchitis more easily by reason of an accident.[59]

Said Cozens-Hardy, Master of the Rolls, "I also think that in considering causes of this kind it is quite legitimate and proper to consider whether an accident has not accelerated an existing tendency to disease in the body, or, as some people have said, given life to some latent causes of mischief in the body."[60]

It is, however, a question of fact whether the existing disease was accelerated by the accident.[61]

The same principle would apply in cases where a second operation is rendered necessary and the death

[57]Lee v. Baird, 45 Scotch L. R. 717, 1 B. W. C. C. 34; Ward v. London, etc., R. Co., 3 W. C. C. 192. But see Cory v. Hughes, (1911) 2 K. B. 738, 4 B. W. C. C. 291.

[58]Lee v. Baird, 45 Scotch L. R. 717, 1 B. W. C. C. 34.

[59]Ystradowen Colliery Co. v. Griffiths, 100 L. T. 869, 2 B. W. C. C. 357.

[60]Ystradowen Colliery Co. v. Griffiths, 100 L. T. 869, 2 B. W. C. C. 357. See also Dunham v. Clare, (1902) 2 K. B. 292; Brintons v. Turvey, 21 T. L. R. 444.

[61] Warnock v. Glasgow Iron, etc., Co., 6 F. 474.

of the employé results from the weakened condition of the employé due to the first operation.[62]

This would not be the case, however, where the second operation, like the pulling of an ulcerated tooth, is not connected with the injury caused by the accident.[63]

§ 464. Defective medical treatment.—An injured workman is not to be deprived of compensation in all cases where his condition is in some measure due to defective treatment.[63a]

Whether the condition of the workman is due to such defective treatment is usually a question of fact.[63b]

§ 465. Extraterritorial effect of compensation laws.—Compensation laws like other laws are without effect beyond the jurisdiction enacting the law. The English Compensation Law has no application outside the territorial limits of the United Kingdom, except in the cases of seamen and apprentices. Accordingly where an English workman in the employment of English contractors was sent out by them to Malta to work for them there, and met with a fatal accident, his widow was denied compensation under the 1906 Compensation act.[64]

In America, however, an action for the death of a workman may be brought in another state provided

[62]Shirt v. Calico Printers' Association, (1909) 2 K. B. 51, 2 B. W. C. C. 342. But see Charles v. Walker, 25 T. L. R. 609, 2 B. W. C. C. 5.

[63]Charles v. Walker, 25 T. L. R. 609, 2 B. W. C. C. 5.

[63a]Beadle v. Milton, 114 L. T. 550, 5 W. C. C. 55.

[63b]Smith v. Cord Taton Colliery Co., 2 W. C. C. 121.

[64]Tomalin v. Pearson, (1909) 2 K. B. 61. See also Hicks v. Maxton, (1907) 124 L. T. Journal 135, 1 B. W. C. C. 150, where a woman servant was taken to France and while there sustained an injury, and was held not entitled to compensation.

See also Hicks v. Maxton, (1907) 124 L. E. Journal 135, 1 B. W. C. C. 150, where a woman servant was taken to France and while there sustained an injury and was held not entitled to compensation.

the laws of the two states on the subject are substantially similar.[65]

The Federal Employers' Liability law may be enforced in the state courts.[66]

§ 466. Whether injury must be natural or proximate cause of accident.—Where a workman receives a personal injury from an accident arising out of and in the course of his employment and death ensues the death may be the result of the injury within the meaning of the compensation laws, even though in fact it may not be the natural or probable consequence thereof.[67]

Thus where a workman receives a personal injury from an accident arising out of and in the course of his employment and disease ensues which incapacitates him for work, the incapacity may be the result of the injury even though it is not the natural result of the injury. The question to be determined is whether the incapacity is in fact the result of the injury.[68]

§ 467. Wilful misconduct.—The injured employé is denied all compensation, under the British Act where his injuries are the result of his own serious and wilful misconduct unless the injury results in death or serious and permanent disablement. The question whether misconduct in any case is serious within the meaning of the statute is determined by its nature and not by its consequences.[69]

Any neglect is "serious neglect" within the meaning of the act, which in the view of reasonable persons in a

[65] St. Louis, etc., R. Co. v. Haiat, 71 Ark. 258, 72 S. W. 893; Burrell v. Fleming, 109 Fed. 489; Cincinnati, etc., R. Co. v. McMullen, 117 Ind. 439, 20 N. E. 287; Usher v. West Jersey R. Co., 126 Pa. St. 206, 17 Atl. 597, 4 L. R. A. 261; Howlan v. New York, etc., Tel. Co., 131 App. Div. (N. Y.) 443, 115 N. Y. S. 316.

[66] Mondon v. New York, etc., R. Co., 223 U. S. 1.

[67] Dunham v. Clare, (1902) 2 K. B. 292.

[68] Ystradowen Colliery Co. v. Griffiths, (1909) 2 K. B. 533.

[69] Johnson v. Marshall, 22 T. L. R. 565; Hill v. Granby Consolidated Mines, 12 B. C. 118, 1 B. W. C. C. 436.

position to judge, exposes anybody, including the person guilty of it, to the risk of serious injury, or if the injury to be feared is of such a character that it may be described as serious, then the case is within the language of the act.[70]

It is not enough that the act is shown to be negligent,[71] neither is the case always made by proof of a violation of rules intended for the safety of employés.[72]

This latter principle would apply in cases where an injury from the breach of the rule could not reasonably be anticipated.[73]

The violation of the rule may be shown as bearing on the question of serious misconduct. It is evidence on the question but no conclusive.[74]

The case of wilful misconduct would seem clear in cases where the employé is guilty of a deliberate and intentional disobedience of well understood and oft repeated orders intended for the protection of workmen.[75]

A test of a particular act as being an act of wilful misconduct is whether the employer would be justified in dismissing the disobedient employé without notice.[76]

As a general rule it is serious and wilful misconduct for an employé to meddle with unfamiliar machinery in violation of express orders to the contrary.[77]

[70] Hill v. Granby Consolidated Mines, 12 B. C. 118, 1 B. W. C. C. 436; see also Leishman v. Dixon, 47 Scotch L. R. 410, 3 B. W. C. C. 560 (obvious danger).

[71] Rees v. Powell, etc., Coal Co., 4 W. C. C. 17; Reeks v. Kynock, 4 W. C. C. 14; 18 T. L. R. 34.

[72] George v. Glasgow Coal Co., 99 L. T. 782, 2 B. W. C. C. 125. But see Jones v. London & S. W. R. Co., 3 W. C. C. 46; Watson v. Butterley Co., 5 W. C. C. 51.

[73] Johnson v. Marshall, 94 L. T. 828, 8 W. C. C. 10.

[74] Bist v. London S. W. R. Co., 96 L. T. 750, 9 W. C. C. 19.

[75] Donnachie v. United Collieries, 47 Scotch L. R. 412; Brooker v. Warren, 23 T. L. R. 201, 9 W. C. C. 26; John v. Albion Coal Co., 4 W. C. C. 15; Jones v. London, etc., R. Co., 3 W. C. C. 46.

[76] Johnson v. Marshall, 94 L. T. 828, 8 W. C. C. 10.

[77] Forster v. Pierson, 8 W. C. C. 19.

Compensation may be granted in case of serious and permanent disablement resulting from serious and wilful misconduct. There was a case of this character where a boy in disobedience to orders was cleaning a machine in motion and his right hand was drawn into the machine and the top joint of two of his fingers were torn off. The court held that the injury was attributable to the serious and wilful misconduct of the workman but that it resulted in serious and permanent disablement and awarded compensation.[78]

Where however the injury is not such as would lead to serious and permanent disablement the right to compensation is forfeited.[79]

There was a case of serious and wilful misconduct defeating a claim for compensation where a servant girl in violation of express orders, stood on the ledge of a glass frame to hang out clothes in a garden and while so standing she slipped and broke one of her ribs.[80]

It is not ordinarily serious and wilful misconduct for a servant to use a way or path usually followed by employés, though a safer way is provided by the employer.[81]

There was a case of serious misconduct where a collier ordered to cut a road in the colliery left his work and went to cut coal in a part of the mine where it was forbidden by special rule to cut any and by doing so he undermined props and he was killed by a cavein.[82]

In this case it was observed by the Master of the Rolls: "If a workman is doing something outside the scope of his employment, the proof of serious and wilful

[78] Hopwood v. Olive, 3 B. W. C. C. 357.

[79] George v. Glasgow Coal Co., 45 Scotch L. R. 687, 1 B. W. C. C. 239.

[80] Beale v. Fox, 126 L. T. J. 257, 2 B. W. C. C. 467.

[81] Douglas v. United Mineral Mining Co., 2 W. C. C. 15.

[82] Weighill v. South Heaton Coal Co., 4 B. W. C. C. 141.

misconduct does not bring the accident within the scope of the employment."[83]

The question whether the act resulting in the injury was wilful misconduct is a question of fact,[84] and the burden of the contention is on the employer.[85]

§ 468.—Wilful misconduct—Intoxication.—The case of wilful misconduct seems very clear in those cases where the employé goes to work while intoxicated and sustains injury by reason of such intoxication.[86]

§ 469. Wilful misconduct—Misrepresentation as to age.—The fact that a youth makes a misrepresentation as to his age in order to obtain the employment in which he received his injury will not be regarded as wilful misconduct where the injury is not a result of the misrepresentation.[87]

§ 470. Dismissal of incapacitated person for his own misconduct.—Generally speaking an incapacitated workman employed at adequate wages under agreement who loses his position by reason of his own misconduct is not entitled to at once call upon his employer for compensation but one act of misconduct does not necessarily deprive him forever of the rights of compensation.[88]

In one of the cases a workman was partially incapacitated by an accident and injury was permanent, but his employers found work in another capacity at higher wages than he had received before the accident. He

[83] Weighill v. South Heaton Coal Co., 4 B. W. C. C. 141.

[84] Donnachie v. United Collieries, 47 Scotch L. R. 412.

[85] Donnachie v. United Collieries, 47 Scotch L. R. 412; Grawick v. British Columbia Sugar Refinery Co., 15 B. C. 193, 4 B. W. C. C. 452; Darbon v. Gigg, 7 W. C. C. 32.

[86] Bradley v. Salt Union, 122 L. T. J. 302, 9 W. C. C. 31; Burrell v. Avis, 1 W. C. C. 129.

[87] Darnley v. Canadian Pacific R. Co., 14 B. C. 15, 2 B. W. C. C. 505.

[88] White v. Harris, 4 B. W. C. C. 39.

was dismissed from this employment by reason of his own misconduct and commenced proceedings for compensation and the award was made in favor of his employers on the ground that his incapacity was due to his own misconduct. It was held that the workman though somewhat disabled had the capacity to earn the same wages as formerly and was only prevented from doing so through his own misconduct, and hence, he was not entitled to a substantial award.[89]

§ 471. **Suicide while insane.**—It is the holding of an English case that where a workman had become insane as the result of an accident and committed suicide that the widow should be allowed to show whether the act of suicide was the result of the accident.[90]

[89] Hill v. Ocean Coal Co., 3 B. W. C. C. 29.
[90] Malone v. Cayzer, 45 Scotch L. R. 351, 1 B. W. C. C., 27.

CHAPTER XXVIII.

WHETHER SERVANT WAS IN THE COURSE OF HIS EMPLOYMENT AT THE TIME INJURIES WERE RECEIVED.

Sec.

472. Meaning of expression "accident arising out of and in the course of the employment."
473. Injury to employé on way to or from pay office.
474. Acts outside line of employment.
475. Injury while doing forbidden acts.
476. Practical jokes.
477. Injury to an employé away from the master's premises.
478. Tetanus contracted by gardener.
479. Dismissed employé on premises to remove his tools.
480. Temporary interruptions.
481. Injury during lunch hour.
482. Fall from wagon while attempting to recover personalty dropped by employé.
483. Obedience of order which should not be obeyed.
484. Attempts to save life of fellow employé.
485. Acts in emergencies.
486. Going to and returning from work.
487. Suffocation while asleep on premises of master.
488. Collector injured in course of employment.
489. Sailors and others leaving and returning to ship—Cases where accidents arise out of and in the course of employment.
490. Sailors and others leaving and returning to ship—Cases where accident did not arise out of and in the course of employment.
491. Injuries received on premises after discharge of servant.
492. Whether work "on, in or about" a railway.
493. Malicious injuries are not received in course of employment.
494. Retroactive effect of statutes.
495. Burden of proof that accident arose out of and in the course of employment.

§ 472. Meaning of expression "accident arising out of and in the course of the employment."—"The person entitled to compensation under the act," says Buckley, L. J., "is a workman who in an employment suffers personal injury by 'accident arising out of and in the course of the

employment.' The words 'out of and in the course of employment' are used conjunctively, not disjunctively; and upon ordinary principles of construction are not to be read as meaning 'out of,' that is to say, 'in the course of.' The former words must mean something different from the latter words. The workman must satisfy both the one and the other. The words 'out of,' point, I think, to the origin or cause of the accident; the words 'in the course of' to the time, place, and circumstances under which the accident takes place. The former words are descriptive of the character or quality of the accident. The latter words relate to the circumstances under which an accident of that character or quality takes place. The character or quality of the accident as conveyed by the words 'out of' involves, I think, the idea that the accident is in some sense due to the employment. It must be an accident resulting from a risk reasonably incident to the employment."[1]

§ 473. Injury to employé on way to or from pay office.—The cases are generally agreed that one does not lose his character as an employé when he leaves the place of his employment to collect his wages. Injuries received at this time are caused by accident arising out of and in the course of employment.[2]

Accidents to employés in the course of employment occur, says Lord Chancellor Loreborn, "while he is doing what a man so employed may reasonably do within a time during which he is employed and at a place where he may reasonably be during that time to do that thing."[3]

And the rule is broad enough to preserve to the employé his character as such where he goes to the pay window for his wages after his term of service is actually terminated.[4]

[1] Fitzgerald v. Clark, 99 L. T. 101, 1 B. W. C. C. 197.

[2] Nelson v. Belfast Corporation, 42 Irish L. T. 223; Riley v. Holland, 1 K. B. 1029, 104 L. T. 371; Lowry v. Sheffield Co., 24 L. T. R. 142; Moore v. Manchester Liners, (1910) A. C. 498.

[3] Moore v. Manchester Liners, (1910) A. C. 498.

[4] Riley v. Holland, 1 K. B. 1029, 104 L. T. 371.

"It was admitted that it was part of the contract of employment that the company should pay this man at their pay office and that he should go there for his wages. While going to the pay office to get his wages he met with an accident on the company's premises. In these circumstances the court was asked to say that the accident did not arise in the course of his employment. In his Lordship's view it was just as much a part of his employment to go to the pay office on that day at that hour, as it was to go down the pit on the following Sunday night."[5]

§ 474. Acts outside line of employment.—Compensation may not be awarded where the injury is received at a time when the servant is doing an act clearly outside the scope of his employment and to accomplish a purpose of his own.[6]

On this ground compensation was refused where an engineman left his engine to return to the rightful owner a pay envelope given him by mistake and he was injured while performing this errand;[7] where a boy employed to piece broken ends of yarn, injured himself while cleaning machinery in motion and such boy was not employed to clean machinery;[8] where a domestic servant employed to take care of a small child, set her clothes on fire while drying her hair;[9] where an engineer left his engine when

[5] Lowry v. Sheffield Coal Co., 24 L. T. R. 142.

[6] Edwards v. International Coal Co., 5 W. C. C. 21; Losh v. Evans, 5 W. C. C. 17; Smith v. Lancashire, etc., R. Co., (1899) 79 L. T. 633; Williams v. Wigan Coal, etc., Co., 3 B. W. C. C. 65; Murphy v. Berwick, (1909) 43 Ir. L. T. 126, 2 B. W. C. C. 103; Clifford v. Joy, (1909) 43 Ir. L. T. 193, 2 B. W. C. C. 32; Furniss v. Gartside, 3 B. W. C. C. 411; Bates v. Davies, (1909) 2 B. W. C. C. 459; Naylor v. Musgrave Spinning Co., 4 B. W. C. 286; Cronin v. Silver, (1911) 4 B. W. C. C. 221; Read v. Great Western R. Co., (1908) 99 L. T. 781, 2 B. W. C. C. 109; Morrison v. Clyde Nav. Co., (1908) 46 Scotch L. R. 38, 2 B. W. C. C. 99.

[7] Williams v. Wigan Coal & Iron Co., 3 B. W. C. C. 65.

[8] Naylor v. Musgrave Spinning Co., 4 B. W. C. C. 286.

[9] Clifford v. Joy, (1909), 43 Ir. L. T. 193, 2 B. W. C. C. 32.

it was standing at rest and crossed over to another track to communicate with a fireman of another engine on business of his own and while returning to his engine was knocked down by a truck and killed.[10]

But the principle has been held inapplicable to a case where employés changed positions with each other with the knowledge of the foreman in charge of the work and one of them sustained injuries in the operation of the new machinery on which he commenced work.[11]

§ 475. Injury while doing forbidden acts.—The cases are generally agreed that a workman who sustains an injury while doing an expressly forbidden act is not entitled to compensation, for the reason that the act causing his injury did not arise out of and in the course of his employment.[12]

Thus the rule was applied and compensation denied in a case where a collier used a method of transit to reach his place of work which method was expressly forbidden and fines were inflicted for his disobedience, and while using this method of transit, he sustained a fatal injury.[13]

So, in a case where a workman in a powerhouse dusted a switchboard when it was no part of his duty and he was expressly forbidden to do so, and while doing so he fell against a live gear and sustained injuries.[14]

And the rule finds frequent application in cases where

[10] Reed v. Great Western Railroad Co., (1908) 99 L. T. 781, 2 B. W. C. C. 109.

[11] Cambrook v. George, 5 W. C. C. 26.

[12] McDaid v. Steel, 48 Scottish L. R. 765, 4 B. W. C. C. 412; Jenkinson v. Harrison, 4 B. W. C. C. 194; Traynor v. Addie, 48 Scottish L. R. 820, 4 B. W. C. C. 357; Kerr v. Baird, 48 Scottish L. R. 646, 4 B. W. C. C. 397; Barnes v. Nunnery Colliery Co., 4 B. W. C. C. 43; Lowe v. Pearson, (1899) 79 L. T. 654; Kane v. Merry, 48 Scotch L. R. 430, 4 B. W. C. C. 379; Whitehead v. Reader, (1901) 2 K. B. 48, 3 W. C. C. 40.

[13] Barnes v. Nunnery Colliery Co., 4 B. W. C. C. 43; see also Kane v. Merry, 48 Scotch L. R. 430, 4 B. W. C. C. 379.

[14] Jenkinson v. Harrison, 4 B. W. C. C. 194.

miners violate rules relating to the positions during blasting operations.[15]

But, the rule must be understood with some qualifications. "I agree," says Collins, L. J., "in what has already been pointed out, that it is not every breach of a master's orders that would have the effect of terminating the servant's employment, so as to excuse the master from the consequences of the breach of his orders. We have to get back to the orders emanating from the master to see what his sphere of employment of the workman, and it must be competent to the master to limit that sphere. If the servant acting within the sphere of his employment violated the order of his master, the latter is responsible. It is, however, obvious that a workman can not travel out of a sphere of his employment without the order of his employer to do so; and if he does travel out of the sphere of his employment without such an order, his acts do not make the master liable either to the workman under the workman's compensation act 1897, or to third persons in common law."[16]

Accordingly, there are cases which authorize allowance of compensation where a workman violates rules by going into forbidden places to get tools or to examine the working of machinery where matters go wrong.[17]

§ 476. **Practical jokes.**—Injuries the result of a spirit of playfulness on the part of the injured servant or his fellows are generally held not received in the course of employment.[18]

[15] Traynor v. Addie, 48 Scottish L. R. 820, 4 B. W. C. C. 357.

[16] Whitehead v. Reader, (1901) 2 K. B. 48, 3 W. C. C. 40.

[17] Conway v. Pumpherston Oil Co., 48 Scottish L. R. 632, 4 B. W. C. C. 392; Harding v. Brynddu Colliery Co., (1911) 2 K. B. 747, 4 B. W. C. C. 269.

[18] Furniss v. Gartside, 3 B. W. C. C. 411; Cole v. Evans, 4 B. W. C. C. 138; Fitzgerald v. Clark, (1908) 99 L. T. 101, 1 B. W. C. C. 197; Wilson v. Laing, (1909) 46 Scotch, L. R. 843, 2 B. W. C. C. 118; Mullen v. Stewart, (1908) 45 Scotch L. R. 729, 1 B. W. C. C. 204; Shaw v. Wigan Coal, etc., Co., 3 B. W. C. C. 81.

This was the case, where some workmen as a practical joke put the hook of the employer's crane on which they were working, through the neckcloth of a fellow workman who was at the time engaged in his work for his employer and commenced to draw him up through the warehouse. The man held the chains with his hands as long as he could, but eventually had to let go and he fell a considerable distance and was seriously injured.[19]

So compensation was denied on this ground where a domestic servant while engaged in the performance of her duty, was struck on the eye by a ball playfully thrown at her by a fellow servant, with the result that she almost completely lost the sight of her eye.[20]

And so where a boy set to clean a machine at rest, was larking with another boy, and accidentally started the machinery, thereby injuring himself, it was held that the accident did not arise out of his employment;[21] in another of the cases, a workman for no apparent reason deliberately assaulted a fellow workman, who, in trying to prevent himself from falling over a moving rope, swung up his hand in which was held a hammer, and injured the other workman's eye. It was held that this accident did not arise out of or in the course of the workman's employment.[22]

§ 477. Injury to an employé away from the master's premises.—It is not required that the servant shall receive his injuries on the premises of his master. It is sufficient if the injury is received in the course of his employment. It has been expressly held under the English compensation act of 1900, that it was not necessary that the employment of an agricultural laborer at the time of the accident, in respect of which, compensation is sought,

[19] Fitzgerald v. Clark, 1 B. W. C. C. 197, (1908) 99 L. T. 101.

[20] Wilson v. Laing, 46 Scotch L. R. 843, 2 B. W. C. C. 118.

[21] Cole v. Evans, 4 B. W. C. C. 138; see also Furniss v. Gartside, 3 B. W. C. C. 411.

[22] Shaw v. Wigan Coal, etc., Co., 3 B. W. C. C. 81.

should have been "on or in or about" the land of his employer.[23]

§ 478. **Tetanus contracted by gardener.**—In an Irish case the evidence showed that a gardener while digging in his employer's garden was injured by a nail piercing his foot through his boot and he subsequently contracted and died of tetanus through the germ, which causes that disease, passing into the wound in his foot. It was found that persons working in stables and gardens are peculiarly subject to contract this disease, if suffering from any wound, and that the tetanus germ entered the wound while the gardener was at his work. It was held that the gardener met his death by an accident arising out of and in the course of his employment within the meaning of the act.[24]

§ 479. **Dismissed employé on premises to remove his tools.**—In what seems an extreme case, an English county court has held that a workman was in the course of his employment, where a few days after leaving his work he obtained leave to go down into the mine to bring up his tools and while there for that purpose met with an accident. The county judge made this finding in a considered judgment and the Court of Appeals refused to modify it on the ground that the court had no jurisdiction to interfere with the finding of fact.[25]

§ 480. **Temporary interruptions.**—The employé still retains his character as such employé in the case of necessary interruptions of his work as where, for example, he leaves his work to obey a call of nature,[26] and is entitled to compensation for injury received provided this act is performed at a proper place.[27]

23 Smithers v. Wallis, (1903 1 K. B. 200.
24 Walker v. Mullins, (1908) 42 Ir. L. T. 168, 1 B. W. C. C. 211.
25 Molloy v. South Wales, etc., Colliery Co., 4 B. W. C. C. 65.
26 Elliott v. Rex, 6 W. C. C. 27.
27 Thomson v. Flemington Coal Co., 48 Scotch L. R. 740, 4 B.

But the right to compensation is lost where the servant leaves his work for a purpose of his own and while absent sustains injury.[28]

Thus, where a club servant left the club for his own purpose and was injured while climbing through a window on his return, it was held that the accident did not arise out of and in the course of the employment.[29]

In another case, a workman employed by colliery owners, went home to dinner in the middle of the day by the accustomed and permitted route, which was on the land of his employers, being overtaken by a line of trains conveying rubbish to a tip, he attempted to jump on one of the trains and fell and was run over and killed. This act was a violation of a colliery regulation. This was held an accident not arising out of and in the course of employment.[30]

The going from one place to another in the line of the servant's work does not amount to an interruption. "If a man goes from his working place to another place in the works he must get back to his work, and if in going back he meets with an accident, that is an accident arising in the course of his employment, just as in the case of an accident happening after he has entered the works in the morning and while he is proceeding to his own place in the works."[31]

§ 481. Injury during lunch hour.—"A workman's employment is not confined to the actual work upon which he is engaged but extends to those actions which by the terms of his employment he is entitled to take or where

W. C. C. 406; see also Pearce v. London, etc., R. Co., 2 W. C. C. 152 (overruled).

[28] Bevron v. Lancashire, etc., R. Co., 89 L. T. 715, 6 W. C. C. 20.

[29] Watson v. Sherwood, 127 L. T. J. 86, 2 B. W. C. C. 462.

[30] Pope v. Hill's Plymouth Co., 3 B. W. C. C. 339; see also, Brice v. Lloyd, (1909) 2 K. B. 804, 2 B. W. C. C. 26.

[31] Thomson v. Flemington Coal Co., 48 Scotch L. R. 740, 4 B. W. C. C. 406.

by the terms of his employment he is taking his meals on the employer's premises."[32]

In other words a workman does not lose his character as a workman while eating his lunch on his employer's premises at a place where he may safely do so and not at an expressly forbidden place or a place of obvious danger.[33]

But this rule would not apply to cases where the employé leaves the premises of his employer to eat his lunch during the time set apart for this purpose.[34]

The rule stated in the outset has been applied in a case where a workman took his lunch to a place on his employer's premises where he had no right to be and if found at the place would have been dismissed, and sustained a serious injury by falling into a tank of scalding water. His injuries were held not to have arisen out of his employment.[35]

§ 482. Fall from wagon while attempting to recover personalty dropped by employé.—The rule that an employé is injured in the course of his employment where the accident occurs while he is doing something that a man so employed can reasonably do at the time during which he is employed and where he may reasonably be during that time to do that thing, was applied in the case of a workman who sustained injury by falling from a wagon while attempting to regain his pipe which had fallen from his mouth. Compensation was awarded. Said the court: "Now this man's operation of getting down from the wagon to recover his pipe seems to me to satisfy all those conditions. Taking them in their inverse order, he had a

32 Brice v. Lloyd, 2 B. W. C. C. 26.

33 Brice v. Lloyd (1909) 2 K. B. 804, 2 B. W. C. C. 26; Blovelt v. Sawyer, (1904) 1 K. B. 271, 6 W. C. C. 16; Earnshaw v. Lancashire, etc., R. Co., 5 W. C. C. 28; Morris v. Lambeth Borough Council, 8 W. C. C. 1; Rowland v. Wright, 24 T. L. R. 852, 1 B. W. C. C. 192.

34 McKrill v. Howard, 2 B. W. C. C. 460.

35 Brice v. Lloyd, (1909) 2 K. B. 804, 2 B. W. C. C. 26.

right to be at the place, riding on or walking beside the wagons; he was within the time during which he was employed, because the accident happened during the actual period of transit; and he was doing a thing which a man while working may reasonably do—a workman of his sort may reasonably smoke, he may reasonably drop his pipe, and he may reasonably pick it up again."[36]

§ 483. Obedience of order which should not be obeyed.—Some latitude is allowed an employé ordered to do an act by a superior though the order is one that the employé should not obey. An accident that occurs while a man is obeying an order which though he knows or ought to know he need not obey, because it is against the rules, but is given him by one from whom he receives his orders, may nevertheless be an accident arising out of and in the course of his employment.[37]

In a case where a boy of 13 whose duty it was to do all sorts of things under the direction of a foreman, was untruthfully told by another man that the foreman had said he was to do certain work and the boy did it and sustained an injury, he was held to have been working in the due course of his employment.[38]

§ 484. Attempts to save life of fellow employé.—It is believed that the humane principle will govern in cases of injuries received while the employé is attempting to save the life of a fellow employé endangered in the course of work and that compensation will be awarded to one so injured. The attempt to save life may be justified on the ground that the employer would have wished the employé to act as he did.[39]

§ 485. Acts in emergencies.—As a general rule the law will assume that an employé has the right to act in an

[36] McLaughlan v. Anderson, 48 Sc. L. R. 349, 4 B. W. C. C. 376.
[37] Statham v. Galloways, 109 L. T. 133, 2 W. C. C. 149.
[38] Brown v. Scott, 1 W. C. C. 11.
[39] Matthews v. Bedworth, 1 W. C. C. 124.

emergency where the interests of his master are involved. This was the rule where a servant was injured while attempting to check a runaway horse belonging to his master, and this, though the employé at the time was at a place where he was expressly forbidden to be.[40]

But there must be an emergency. There was not an accident arising from an emergency where a boy was employed to grease the wheel and axles of railroad trucks, and while waiting for the trucks to come up he thought the points were against the engine and began to pull the lever in order to open them and was injured.[41]

So a man employed by the owner of a canal boat as driver, who was forbidden by his employer to take part in the steering or management of the boat was drowned while engaged in steering. A boatman who had been temporarily in charge of a horse had deserted a short time before the accident and the other boatman who was also master of the boat decided to drive and told the deceased to steer. It was held that no emergency had arisen and that the deceased had violated the express order of his employer and hence the accident did not arise out of and in the course of the employment.[42]

There was a case of emergency where a workman was employed by a lion tamer to look after the baggage, clean out the cages and make himself useful, but he was not required to feed the lions. On one occasion the lions got out of a cage and in the attempt to drive the lions back they turned on the employé and killed him. In this case compensation was awarded on the theory that the employé was injured while acting in an emergency in the interests of his employer.[43]

§ 486. Going to and returning from work.—A workman's employment begins in the ordinary course when

[40] Rees v. Thomas, 80 L. T. 578, 1 W. C. C. 9.
[41] Harrison v. Whittaker, 16 T. L. R. 108, 1 W. C. C. 12.
[42] Whelan v. Moore, 43 Ir. L. T. 205, 2 B. W. C. C. 114.
[43] Hapelman v. Poole, 25 T. L. R. 155, 2 B. W. C. C. 48.

the time has arrived and the locality has been reached at which he is employed to work.[44]

But the employment is not limited to the exact moment when the workman reaches the place where he is to begin his work and to the moment when he ceases that work. It includes a reasonable amount of time and space before and after ceasing actual employment.[45]

On the question of time when employment commences within the compensation acts it has been said: "There must be a reasonable margin of space having regard to all the circumstances. It is not a sufficient test that the workman should be on the premises of the employer; but it may be sufficient that he is in such a state of proximity as may be treated as a reasonable margin in point of space. It is impossible to lay down any definite limit as the circumstances of each case must necessarily differ."[46]

"But there is no doubt that only a reasonable margin before the time of commencing actual work can be considered as coming within the period of employment."[47]

The rule is the same as to the time after actual employment is terminated and the relation will exist for a reasonable interval after actual work has ceased.[48]

As a general rule, however, the period of going to and returning from work is not included.[49]

Accordingly where a workman, when his work for the

[44] Holness v. Mackay, 80 L. T. 831, 1 B. W. C. C. 13.

[45] Gane v. Norton Hill Colliery Co., 2 B. W. C. C. 42; McKee v. Great Northern R. Co., 42 Ir. L. T. 132, 1 B. W. C. C. 165.

[46] Hoskins v. Lancaster, 3 B. W. C. C. 476.

[47] Sharp v. Johnson, (1905) 2 K. B. 139, 7 W. C. C. 28.

[48] Smith v. South Normanton Colliery Co., (1903) 1 K. B. 204, 5 W. C. C. 14.

[49] Gilmour v. Dorman, 105 L. T. 54, 4 B. W. C. C. 279; Benson v. Lancashire, etc., R. Co., (1904) 1 K. B. 242; Holmes v. Mackay, 80 L. T. 831, 1 W. C. C. 13; Jackson v. General Steam Fishing Co., (1909) A. C. 523, 2 B. W. C. C. 56; Caton v. Summerlee, etc., Iron Co., (1902) 39 Scotch L. R. 762; Walters v. Stavely Coal, etc., Co., 105 L. T. 109, 4 B. W. C. C. 303; Whitbread v. Arnold, (1908) 99 L. T. 103, 1 B. W. C. C. 317.

day was over without loitering and with all reasonable speed left the place where he was employed by the accustomed and permitted route on the way to his home and was injured by an accident while so doing, the accident was held to have arisen in the course of his employment as well as out of it within the meaning of the English compensation law.[50]

Another rule is that the servant will be regarded as employed during a reasonable time before the actual employment commences.[51]

But this intends a reasonable time and an hour and a quarter before the time to commence work is too long.[52]

So one is in the course of his employment where he is directed by his superior to proceed to another place to work so that he is entitled to compensation where injured in going to the other place.[53]

A miner's employment commences when he has obtained his pit lamp and his "tallies" and is waiting at the pit brow to descend.[54]

In cases where the employer contracts to carry the servant to and from his work, the employment within the compensation statutes is generally held to begin when the workman enters the train to go to the place of work.[55]

50 Gane v. Norton Hill Colliery Co., 100 L. T. 979, 2 B. W. C. C. 42.

51 Sharp v. Johnson, 92 L. T. 675; but see Anderson v. Fife Coal Co., 47 Scotch L. R. 5, 3 B. W. C. C. 539.

52 Benson v. Lancashire, etc., R. Co., 89 L. T. 715, 6 W. C. C. 20.

53 Jesson v. Bath, 113 L. T. 206, 4 W. C. C. 9.

54 Fitzpatrick v. Hindley Field Colliery Co., 3 W. C. C. 37, 4 W. C. C. 7.

55 Holmes v. Great Northern R. Co., (1900) 2 Q. B. 409, 2 W. C. C. 19; Cremins v. Guest, (1908) 1 K. B. 469, 1 B. W. C. C. 160.

But see Davies v. Rhymney Iron Co., 2 W. C. C. 22; and Nolan v. Porter, 2 B. W. C. C. 106, where rule held inapplicable to cases where transportation gratuitous and not obligatory. But there is a case which holds that the time of employment begins while the workman is waiting on the platform for his train. Cremins v. Guest, (1908) 1 K. B. 469, 1 B. W. C. C. 160.

Closely connected with this subject are cases where the servant is engaged in two employments and injury is received while going from one employment to the other. This was the case where a workman was engaged to load a van and was promised employment in unloading it at another place, if he would be there by the time the van arrived. He agreed to be there, and started on his bicycle, but on the way met with an accident. In the lower court it was held that the employment was continuous and compensation was awarded. On appeal, however, the court took the view that there were two separate and distinct employments and that one had ended and the other had not begun, hence the accident did not arise out of or in the course of the employment.[56]

Very closely allied to the question under consideration are cases where the injury is received during working hours, while the employé is absent from his place of employment, on an errand connected with such employment. The general rule is that the employé still retains his character as an employé. Thus, for example, a laborer on the public roads was required to go for his pay to a station some distance from the place of his work. He was paid for the time occupied in going to and returning from the pay place. When returning to his work after receiving his wages he mounted a tram car, but finding that it did not travel to the place where his work was situate he got off and was struck by a passing cart and was injured. The Court of Appeals held this an injury arising out of and in the course of the laborer's employment.[57]

In another case a laborer at work in a field was stopped by a storm and while going to his home across the land of his employer to avoid the storm, he stepped on a plank

[56] Perry v. Anglo-American Decorating Co., 3 B. W. C. C. 310.

[57] Nelson v. Belfast Corporation, 42 Ir. L. T. 223, 1 B. W. C. C. 158.

and sustained an injury. It was held that he was at the time in the course of his employment.[58]

The foregoing principles have found frequent application in cases of injuries to miners. Thus, for example, a miner who was making his way home from the pit, instead of taking the recognized exit provided by the miners for the use of the men, crossed the gangway onto a dirt-bed or waste heap, down which he proceeded by a steep and very rough and in wet weather very slippery walk not formed in any way but worn down into uneven steps, near the foot of a slope, and while standing on the premises of his employer he slipped and fell and was seriously injured. The use of this road was neither sanctioned nor expressly prohibited by the mine owners and as the deceased must have known, considered dangerous. It was held that the accident did not arise out of and in the course of the employment of the miners.[59]

In another case a collier was injured by a gate swinging back on him. The land on both sides of the gate belonged to the employer and the gates were about fifteen yards from the lamp room to which the collier was first going on his way to work. The passage through the gate was the reasonable mode of access to the collier's work. Here the accident was held to have arisen out of or in the course of the employment.[60]

In another case a miner descended into his pit by the cage and got out at the wrong level. He then descended by a shaft near the cage and instead of proceeding to his work walked to a place some 700 feet along the road to a place which was very different to his proper road. At this point he was found dead, having been scalded to death by the steam which escaped from the colliery engines.

[58] Taylor v. Jones, 123 L. T. J. 553, 1 B. W. C. C. 3.

[59] Hendry v. United Colleries, 47 Scotch L. R. 635, 3 B. W. C. C. 567.

[60] Hoskins v. Lancaster, 3 B. W. C. C. 476.

This accident was held to have arisen out of and in the course of employment of the collier.[61]

§ 487. Suffocation while asleep on premises of master.—A servant sustains an accident in the course of his employment where he is suffocated by smoke fumes while asleep in an apartment assigned to him by his master. This was the rule in a case where a servant girl was suffocated while asleep in her bedroom in a hotel in which she was employed.[62]

§ 488. Collector injured in course of employment.—A collector injured while going from house to house in the performance of his duty is entitled to compensation.[63]

This was the case where a salesman and collector while riding in the street on a bicycle in the course of his employment was kicked on the knee by a passing horse and injured.[64]

In another case a canvasser and collector employed to go around calling on customers usually went on his bicycle. This was not necessary and his employer who knew of the practice neither ordered nor forbade it. While so riding he collided with a street car and was killed. It was held that the accident arose out of the employment.[65]

It would seem on principle and in the light of the foregoing citations that a commercial traveler would be regarded as acting within the scope of his employment during all the time between the time he starts from his place of business and his return thereto.

61 Sneddon v. Greenfield Coal, etc., Co., 47 Scotch L. R. 337, 3 B. W. C. C. 557.

62 Chitty v. Nelson, 126 L. T. J. 172, 2 B. W. C. C. 496.

63 Refuge Assurance Co. v. Miller, 49 Scotch L. R. 67; Pierce v. Provident Clothing, etc., Co., 104 L. T. 473, 4 B. W. C. C. 242; McNeice v. Singer Sewing Machine Co., 48 Scotch L. R. 15, 4 B. W. C. C. 351.

64 McNeice v. Singer Sewing Machine Co., 48 Scotch L. R. 15, 4 B. W. C. C. 351.

65 Pierce v. Provident Clothing and Supply Co., 104 L. T. 473, 4 B. W. C. C. 242.

§ 489. Sailors and others leaving and returning to ship—Cases where accidents arise out of and in the course of employment.—There is a long line of cases bearing on the question of accidents to sailors received while leaving and returning to their vessels. It may be said in the outset that when a ship is in port and a sailor goes on shore with leave, his employment is not interrupted thereby.[66]

The sailor was held to have received his injuries in an accident arising out of and in the course of his employment where returning late in the evening to his ship after being on shore with permission, and being under the influence of liquor, he attempted to board the ship by using the cargo skid instead of the gangway and slipped and received injuries, from the effects of which he died. Sailors on this vessel were not forbidden to use the skid and it was habitually used for this purpose.[67]

The conclusion was the same in a case where a workman on a ship in dock attempted to reach shore by slipping down a rope which still held the vessel to a quay after the gangway had been removed and while making the attempt the rope gave way and he was thrown against the quay wall and injured. In this case it appeared that the injured workman was following the example of another workman who had got ashore safely by this means.[68]

Similarly, in another case a workman employed to watch trawlers as they lay in the harbor went ashore to get necessary food and on his return to his vessel fell from a ladder attached to the quay and sustained serious injury.[69]

In another case a sailor on shore with leave for purposes of his own was injured by the fall of the gangway

[66] Leach v. Oakley, 1 K. B. 523, (1911) 4 B. W. C. C. 93.

[67] Robertson v. Allen, (1908) 98 L. T. 821, 1 B. W. C. C. 172.

[68] Keyser v. Burdick, 4 B. W. C. C. 87.

[69] Jackson v. General Steam Fishing Co., 25 T. L. R. 787, 2 B. W. C. C. 56.

and it was held that this accident arose out of and in the course of the employment of the sailor.[70]

In this case the court said: "The first question in all cases of this sort is, what is the workman's employment? It may be continuous, as that of a sailor on a voyage, or a domestic servant, in either of which cases, unless and until the continuity is broken or suspended, any accident necessarily arises in the course of the employment, or it may be discontinuous, in which case the nature of the express employment and the incidents that are reasonably necessary or proper for the due performance thereof have to be taken into consideration. This consideration also arises when a continuous employment is temporarily discontinued, either with or without leave."[71]

In another case, the accident was received in course of employment where a returning sailor passed over a gangway from the wharf and had one foot on the rail of the ship and the other on a ladder leading from the rail to the deck when it overbalanced and he fell over the side of the ship and was drowned.[72]

In still another case the injury was held one in the course of employment where a sailor off duty on returning to his vessel found no gangway nor ladder. After hailing and getting no answer he jumped from the pier to the vessel with the result that he struck the rail and sustained permanent injuries.[73]

A workman was descending the side of a ship by a rope ladder. The ladder twisted suddenly and he gave a cry and fell into the water and was dead when picked up. The medical evidence was that the death was due to heart failure and not to drowning, that the heart was in such a state, that any exertion might cause failure. This was held

[70] Leach v. Oakley, 4 B. W. C. C. 93.

[71] Leach v. Oakley, 4 B. W. C. C. 93, (1911) 1 K. B. 523.

[72] Canavan v. The Universal, 3 B. W. C. C. 355.

[73] Kearon v. Kearon, 45 Ir. L. T. 96, 4 B. W. C. C. 435.

an accident arising out of and in the course of the employment.[74]

§ 490. Sailors and others leaving and returning to ship—Cases where accident did not arise out of and in the course of employment.—It is the purport of other decisions that when a sailor goes on shore for his own purposes and not for the ship's business he is outside the protection of the compensation act from the moment he leaves the ship until he gets back on the ship. Where the sailor has been out for his own purposes whether with or without consent, his right to protection is complete when once he has got back on board the vessel.[75]

The question in most cases is as to the time when the employé relation is restored. "A sailor who goes on shore on a spree, whether with or without leave, while away from the ship, is out for his own amusement and is not in the employment of his master; his master may allow him to leave his work to go for a spree, but he can not be said to employ him to go on a spree, and when the sailor returns the question arises: at what point does he reach the ambit of his employment? It is immaterial whether he goes with or without leave; it is not a question of misconduct at all; it is whether he was in the course of duty or in the course of leading to it."[76]

The engineer of a vessel in drydock who went ashore to his home for dinner and fell into the dry dock on his return, was not in the course of his employment at the time of receiving the injury.[77]

The rule was the same where a workman went ashore in the night-time to buy bread and was told by the foreman not to go and he could have made the trip at an earlier hour with safety and upon his return, while at-

[74] Trodden v. McLenard, 4 B. W. C. C. 190.

[75] Moore v. Manchester Liners, 100 L. T. 164, 2 B. W. C. C. 87; Kelly v. The "Foam Queen," 3 B. W. C. C. 113.

[76] Leach v. Oakley, 4 B. W. C. C. 93.

[77] Gilbert v. The Nizam, 3 B. W. C. C. 455.

tempting to jump from the quay onto the ship, he fell and was killed.[78]

In another case a sailor returning on board his ship after a trip on shore unconnected with his employment, fell into the water from steps leading from the gangway, of which they formed a part, and was drowned. This was held not an accident arising out of and in the course of the employment.[79]

In another case a workman arriving at a dock mistook the position of the gangway and fell between the dock wall and the ship and was injured. His day's pay should have begun from the time he reported himself on board the ship. Neither the dock, ship nor gangway were under the control of the employer. This was held an accident not arising out of and in the course of the workman's employment.[80]

"By going on shore with leave, the seaman does not interrupt the course of his employment, but any accident that occurs during the period of his being on shore is generally, if not necessarily, due to a danger to which he is exposed as a member of the public and not as one of the crew of the ship, and therefore is one which does not arise out of his employment. But if, whether in his working hours or leisure, it becomes necessary for him, in fulfillment of his employment, to get on board his vessel, an accident occurring in his doing so, is normally an accident arising out of his employment, because it is due to a danger incidental to his service in that ship."[81]

Here, as elsewhere, the applicant has the burden of proof that the accident arose out of and in the course of the employment and unless he sustains this burden, compensation will not be awarded.[82]

78 Martin v. Fullerton, 1 B. W. C. C. 168.

79 Hindman v. Craig, 44 Ir. L. T. 11, 4 B. W. C. C. 438.

80 Nolan v. Porter, 2 B. W. C. C. 106.

81 Leach v. Oakley, 4 B. W. C. C. 93.

82 Kitchenham v. The "Johannesburg," 4 B. W. C. C. 91, 311; O'Brien v. Star Line, 1 B. W. C. C. 177.

Compensation will not be awarded where the evidence is equally consistent with the sailor having gone ashore for his own purpose or for purposes connected with his duties.[83]

§ 491. Injuries received on premises after discharge of servant.—After the dismissal of a servant he is entitled to a reasonable time to leave the premises before he can be said to have lost his character as an employé. The length of the time necessary for this time is usually regarded as a question of fact. In one of the cases a miner employed in a colliery was suspended from work and ordered to go to the pit bottom to be taken above. Knowing that he could not be taken from the pit for some time he did not go to the pit bottom but went and sat in a "pass-by," a kind of refuge by the side of the gangway, and while loitering there was injured by a falling piece of coal. This was held to be an accident not arising out of and in the course of employment.[84]

In this case the court, in addressing itself particularly to this matter, said: "While a workman is leaving the place where he is employed, I think that for the purposes of this act, his employment would still continue. But though his employment may continue for an interval after he has actually ceased working, yet there must come a time when he can no longer be said to be engaged in his employment in such a way that an accident happening to him can be said to have arisen out of and in the course of his employment. There must be a line beyond which the liability of the employer can not continue, and the question where that line is to be drawn in each case is a question of fact."

[83] Fletcher v. The "Duchess," 4 B. W. C. C. 317; McDonald v. The Banana, 1 B. W. C. C. 185.

[84] Smith v. South Normanton Colliery Co., 88 L. T. 5, 1 K. B. 204 (1903).

§ 492. Whether work "on, in or about" a railway.—The courts incline to a close construction of this phrase in the law of 1897. In one of the cases, a barmaid in the employment of a railway company behind the counter of the refreshment room at a railway station was personally injured by an accident in the course of her employment and she was denied compensation on the ground that she was not employed "on or in or about a railway" within the English compensation act 1897. A refreshment room is not used for the purpose of public traffic within the meaning of the law.[85]

Neither is an employé of contractors to build a railway station included in the term, as this work is merely ancillary or incidental to the operation of the railroad.[86]

§ 493. Malicious injuries are not received in course of employment.—In a case where a missle was thrown in anger at a tormenting fellow employé and missed its mark and struck another employé properly engaged at his work, and seriously injured him, it was held that the accident did not arise out of the employment and the injured workman was not entitled to compensation. The act causing the injury was entirely outside the scope of the employment of both the doer of the act and the injured workman.[87]

§ 494. Retroactive effect of statutes.—In the absence of language in the statutes to the contrary, a compensation act has no retroactive effect. This was determined in an English case where a stereotyper in the employ of a newspaper was poisoned by the lead and left his employment before the compensation law became effective and died when the law was in full force. In this case compensation was refused on the ground that the injury was received before the enactment of

[85] Milner v. Great Northern R. Co., 16 T. L. 249, 2 W. C. C. 51.
[86] Pearce v. London, etc., R. Co., 82 L. T. 487, 2 W. C. C. 47.
[87] Armitage v. Lancashire, etc., Co., 86 L. T. 883, 4 W. C. C. 5.

the statute and on the further ground that at the time the demand was made there was no relation of employer and employed between the parties.[88]

§ 495. Burden of proof that accident arose out of and in the course of employment.—A person claiming compensation under the English statute must prove that the injury arose out of and was sustained in the course of employment of the injured person. But the burden may be shifted, especially when the claim is by the dependent of the workman who has been killed and whose evidence is therefore not available. In such a case if facts are proved, the natural and reasonable inference from which is that the accident happened while the deceased was engaged in his employment, it then falls upon the employer, if he disputes the claim, to prove that the contrary was the case.[89]

[88] Greenhill v. Daily Record, 46 Scotch L. R. 483, 2 B. W. C. C. 244.

[89] Grant v. Glasgow R. Co., 45 Scotch L. R. 128, 1 B. W. C. C. 17; see also Pomfret v. Lancashire, etc., R. Co., (1903) 2 K. B. 718, 5 W. C. C. 22; Chitty v. Nelson, 126 L. T. J. 172, 2 B. W. C. C. 496; Thackway v. Connelly, 3 B. W. C. C. 37.

CHAPTER XXIX.

DEPENDENTS OF DECEASED WORKMAN.

Sec.
496. Meaning of term "dependent."
497. Mother total dependent of one of several sons.
498. Total and partial dependents of same workman.
499. Parents.
500. Aliens.
501. Paupers.
502. Posthumous children.
503. Illegitimates.
504. Where one is the dependent of more than one injured workman.
505. Mother of injured child dependent though supported by husband.
506. Wife separated from husband.
507. Presumption of death from lapse of time.
508. Right of representative of deceased dependent.
509. Necessity of appointment of administrator of dependent.
510. Death of workman under compensation not a bar to claim of dependents.

§ 496. Meaning of term "dependent."—A dependent within the meaning of the British Compensation Act is a person who was dependent upon the deceased workman for the ordinary necessities of life, having regard to his class and position and not one who merely derived a benefit from such earning.[1]

But one is not rendered less a dependent by the fact that he is able to maintain himself without the assistance of the deceased workman.[2]

The widow and children of the deceased workman may be dependent though they contribute to the famliy fund.[3]

"In our judgment, a widow and children are, according to the true intent and meaning of the act none the

[1] Simmons v. White, 80 L. T. 344, 1 W. C. C. 89.
[2] Howells v. Vivian, 85 L. T. 528; 85 L. T. 529.
[3] Senior v. Fountain, 23 T. L. R. 634, 9 W. C. C. 116.

less 'dependents wholly dependent upon his earnings at the time of his death' because the workingman has been enabled through the receipt by him, either directly or through his wife as agent, of moneys from wage earning sons, or of money coming to him through other channels, to augment the fund out of which he has been legally bound to maintain and has maintained his household."[4]

And one may be a dependent though the workman has sent to such dependent money at irregular times and in irregular amounts.[5]

Money which comes to a dependent on the death of a workman does not affect the question of whether or not he is dependent upon his earnings at the time of the death of the workman. What the law intends is the condition immediately before the death of the workman.[6]

The question of dependency in any case is a question of fact and not one of law.[7]

§ 497. Mother total dependent of one of several sons.—In a case where a widowed mother has several grown up sons all at work but she lives with one of them, her only unmarried son, and is in fact entirely supported by his earnings at the time of his death, she is a total dependent of such son within the meaning of the compensation act of 1906, notwithstanding the other sons are all able and liable to contribute to her support.[8]

§ 498. Total and partial dependents of same workman.—Dependents who were in part dependent upon

[4] Senior v. Fountain, 23 T. L. R. 634, 9 W. C. C. 116.

[5] Follis v. Schaake Machine Works, 13 B. C. 471, 1 B. W. C. C. 442.

[6] Price v. Penrikyber Colliery Co., 85 L. T. 477, 4 W. C. C. 115.

[7] Main Colliery Co. v. Davies, (1903) A. C. 358, 1 W. C. C. 92, 2 W. C. C. 108; Hodgson v. West Stanley Colliery, (1910) A. C. 229, 102 L. T. 194, 3 B. W. C. C. 260.

[8] Rintoul v. Dalmeny Oil Co., 45 Scotch L. R. 809, 1 B. W. C. C. 340.

the earnings of a deceased workman are entitled to recover compensation though there may be in existence dependents who are wholly so dependent.[9]

§ 499. Parents.—The question whether the parent is in fact a dependent is a question of fact and not of law. The case is clear where the child is a regular contributor to the family fund.[10]

It is not absolutely required that the contributions should be continuous; it is sufficient if there is a willingness to contribute and the son is unable to make the contribution by reason of lack of employment. "We should be whittling away the act were we to say that where money payments have been made, as here, and when the workman is out of employment or out of full employment for a short time, that then there was no dependency."[11]

§ 500. Aliens.—It is the later view of the Canadian courts that the benefits of the Workmen's Compensation Acts do not extend to alien dependents, resident abroad.[12]

"The Workman's Compensation Act is in its nature domestic or municipal, and it may be regarded as a shifting of what one might call (though strictly not one) a duty, namely, to provide for the destitute from the State to the employer. This province owes no such obligation to aliens abroad. These could not become a burden upon the State or upon private charity in the State. Hence I think no intent ought to be inferred to impose an obligation on employers beyond that essential to accomplish what would appear to be the legislature's intention; or, to put it in another way that the general

[9] Robinson v. Anon, 6 W. C. C. 117.

[10] Turner v. Miller, 3 B. W. C. C. 305.

[11] Robertson v. Hall Steamship Co., 3 B. W. C. C. 368; see also Main Colliery Co. v. Davies, 16 T. L. R. 460, 2 W. C. C. 108.

[12] Krzus v. Crow's Nest Pass Coal Co., 4 B. W. C. C. 469.

words used in the act relied upon as including foreign dependents, must be construed by reference to what the legislature may fairly and reasonably be considered to have had in contemplation. As against this view of the statute there is the one based upon the notion that the act holds out to every workman who accepts employment within the province, a promise that in case of his death in such employment, by accident, the employer shall be compelled to compensate his dependents. This, I think is based upon the idea that the dependents derive their rights from or through the deceased workman; but, as pointed out in Tomalin v. Pearson, (1909) 2 K. B. 61, the benefit conferred by this attitude is not founded upon contract at all, but arises out of statutory duty imposed for the benefits of the dependents. It is a benefit conferred directly upon the dependents."[13]

§ 501. **Paupers.**—The mere fact that one may be legally liable to contribute to the cost of maintenance of the person for whom the claim is set up is not determinative of the question of dependency. Accordingly, it has been held that an inmate of a poorhouse was not dependent on the earnings of another, because such other person was legally liable to contribute to the cost of the maintenance of the pauper.[14]

§ 502. **Posthumous children.**—A posthumous child may be a dependent of its father to the same extent as children in being at the time of his death.[15]

And the rule is the same though the child may be illegitimate.[15a]

In the case announcing the latter principle the Master

[13] Krzus v. Crow's Nest Pass Coal Co., 4 B. W. C. C. 469; but see Varsick v. British Columbia Copper Co., 12 B. C. 286.

[14] Rees v. Penrikyber Navigation Co., 87 L. T. 661, 5 W. C. C. 117.

[15] Villar v. Gilbey, (1907) A. C. 139; Williams v. Ocean Coal Co., 97 L. T. 150, 9 W. C. C. 44; Day v. Markham, 6 W. C. C. 115.

[15a] Schofield v. Orrell Colliery Co., 100 L. T. 104, 2 B. W. C. C. 301.

of the Rolls said: "The illegitimate child is made a member of the family in the same way and to the same extent as a legitimate child, and I think it follows that a posthumous illegitimate child is made a member of the family to the same extent as a legitimate child actually born at the time of the death. It is idle to say that according to the strict meaning of the words a posthumous child, whether legitimate or not, was not a dependent at the date of the death. As I have said, our construction was a straining of the language; but I am entirely unable to draw any distinction from the fact that a legitimate child when born would have a right to be supported by the father, whereas an illegitimate would not have any such right until an affiliation order had been obtained. The question of dependency is a mixed question of law and fact, and the facts of this case support the presumption of dependency. The mother of the child and the deceased were engaged to be married. The deceased avowed the child to be his. He agreed to marry the mother; he paid for the banns, which had been twice published; and the date of the marriage was fixed. I can not bring myself to doubt that the father did not intend the child, to use his own language, to be a chance child. He intended to make the child legitimate, and, whatever happened, he intended to take upon himself the responsibility for the maintenance of the child. In that sense the child was a member of the family of the deceased, and was dependent on the earnings of the deceased."[16]

§ 503. **Illegitimates.**—Neither the mother of the illegitimate son nor her husband who was not the putative father of the boy, are entitled to compensation and in the case of the mother, the principle is stronger where she is supported by her husband. In such a case the attempt to make out that the husband of the mother was

[16] Schofield v. Orrell Colliery Co., 100 L. T. 104, 2 B. W. C. C. 301.

the stepfather of the child was regarded as preposterous.[17]

An illegitimate child is the dependent of a father found to be such in proper proceedings, and is entitled to compensation on the death of such father through an accident.[18]

In some jurisdictions, status as an illegitimate may be overcome by proof of a common-law marriage between the father and mother of the alleged illegitimate.[19]

§ 504. Where one is the dependent of more than one injured workman.—One may be the dependent of more than one workman. There was such a case where two sons of a workman who were living at home gave all their earnings to their parents and these earnings together with the earnings of the father formed a common fund, out of which the whole family, which included six other children and the mother who were not earning wages—was maintained. The father and the two wage earning sons were killed in the same accident. It was held that the widow was dependent on both her husband and her sons and was not wholly dependent on the earnings of the husband. The court further held that a dependent on more than one workman can recover more than the maximum amount of compensation for the death of one workman only. "It is one thing to say that in a particular case a father is partly dependent on his son's contributions because they assist him in discharging his legal duty of maintaining his family. It is quite a different thing to say that in all cases while the father is alive the mother is wholly dependent upon him. I do not see that the latter proposition in any way flows from the former."[20]

[17] McLean v. Moss Bay Steel Co., 100 L. T. 871, 2 B. W. C. C. 282.

[18] Bowhill v. Neish, 46 Scottish L. R. 250, 2 B. W. C. C. 253.

[19] Fife Coal Co. v. Wallace, 46 Scottish L. R. 727, 2 B. W. C. C. 264.

[20] Hodgson v. West Stanley Colliery Co., 102 L. T. 194, 3 B. W. C. C. 260.

§ 505. Mother of injured child dependent though supported by husband.—The mother of an injured son may be a partial dependent on her son where the earnings of the son were paid into the family fund though the mother is supported by her husband.[21]

§ 506. Wife separated from husband.—A wife living apart from her husband and supporting herself by her own labor, is not strictly a dependent within the meaning of the compensation laws. The theory of these laws is that the dependent shall be one actually dependent on the deceased workman. The mere fact that a man in ordinary circumstances is liable to support his wife in law is not of itself sufficient evidence to support a claim for compensation by his widow. The obligation or liability to support is not the same as actual support. "Money coming to a widow under the act is not a present in consideration of her status. It is a payment by a third person to compensate her, as a dependent, for her actual pecuniary loss by her husband's death and * * * there is no rule of law to prevent the arbitrator from finding, that though married to the deceased the applicant was not dependent upon him."[22]

This was the holding in a case where a wife left her husband on account of his cruelty and went to live with her relations and supported herself for more than twelve years by her own work.[23]

In another case, however, the wife was held partially dependent upon her husband's earnings where she had been turned out of her home by her husband and though not supported by him she had made efforts to obtain such support.[24]

[21] McLean v. Moss Bay, etc., Steel Co., 3 B. W. C. C. 402; see also Hodgson v. West Stanley Colliery Co., 3 B. W. C. C. 402, 260.

[22] New Monckton Collieries v. Keeling, 4 B. W. C. C. 332.

[23] Lindsay v. McGlashen, 45 Scottish L. R. 559, 1 B. W. C. C. 85.

[24] Medler v. Medler, 124 L. T. J. 410, 1 B. W. C. C. 332.

§ 507. Presumption of death from lapse of time.—The proceedings for compensation for the death of a seaman are regulated by the compensation act of 1906 and not by the provisions applicable to the recovery of wages under the Merchants Shipping Act of 1894 which latter provisions are incorporated in the act of 1906, for the purpose of facilitating seamen in making their claims. The lapse of twelve months during which a ship has not been heard of after which she is deemed to have been lost with all hands, is not a condition precedent to a claim for compensation under the workmen's compensation act. Hence, where by the ordinary rules of evidence, a seaman would be deemed to have been lost at sea with his ship, an application for compensation may be made notwithstanding that twelve months have not elapsed from the time when the ship was last heard of.[25]

§ 508. Right of representative of deceased dependent.—Where the rule fixes a compensation to be paid to a dependent, the right to this amount is not determined by the death of the dependent. The amount is to be paid to the representative of the deceased though the need has disappeared. This is the rule in England where the statute does not expressly make the death of the dependent end the right to compensation. The representative of the deceased dependent is entitled to the compensation though such dependent made no claim during his lifetime.[26]

In such a case Lord Chancellor Loreborn said: "If there is this right, when does it arise or become vested? The statute evidently treats it as arising because of the workman's death. It seems to follow that it arises on

25 Maginn v. Carlingford, etc., Steamship Co., 43 Ir. L. T. 123, 2 B. W. C. C. 224.

26 United Collieries Co. v. Hendry, 101 L. T. 129, 2 B. W. C. C. 308; Hendry v. United Collieries Co., 45 Scotch L. R. 944, 1 B. W. C. C. 289; Darlington v. Roscoe, 96 L. T. 179, 9 W. C. C. 1.

the workman's death, unless some other event is fixed. Counsel for the appellant sought to invoke the second section of the act, which declares that proceedings for the recovery of compensation shall not be maintainable unless notice has been given as soon as practicable, and the claim for compensation made within six months. This is merely a bar to the remedy, unless conditions precedent to the remedy have been fulfilled, and is analogous to the numerous instances in which notice of action is required by statute. It does not help in determining when the right to compensation arises. I observe that in Lord M'Laren's opinion, if the claim is made within the statutory period, and the dependent dies before an award has been made, the right to an award of compensation has vested in the dependent, and a right to follow out the proceedings in the arbitration passes to the legal personal representatives. But if the claim has not been made his Lordship thinks that the employer's liability is terminated by the death of the dependent. That opinion is entitled to the greatest respect, but I cannot agree. I cannot see why the claim instead of the death is to be regarded as the signal for the right to compensation vesting. And even if it were so, the act does not require that the dependent himself should make the claim, and I do not see why that right to make the claim should not pass to the executor. It seems to me, therefore, that as the person represented by the respondent was the only dependent, her representative may properly claim all that she was entitled to, the right being transmissible as property. If there had been several dependents the law would not be different, but the discretion of the county court judge or sheriff in apportioning might very likely render the proceedings unprofitable."[27]

[27] United Collieries Co. v. Hendry, 101 L. T. 129, 2 B. W. C. C. 308.

§ 509. Necessity of appointment of administrator of dependent.—Under the British statute it is not necessary for a dependent to take out letters of administration to the estate of the deceased.[28]

§ 510. Death of workman under compensation not a bar to claim of dependents.—The fact that the injured workman received compensation will not bar dependents, where the death was the result of the accident for which compensation was originally allowed. The rights of the dependent are different from those of the deceased and wholly independent. They do not come into existence until he is dead.[29]

[28] Clapworthy v. Green, 4 W. C. C. 152, 86 L. T. 702.

[29] Jobson v. Cory, 4 B. W. C. C. 284; Howell v. Bradford Co., 104 L. T. 435, 4 B. W. C. C. 203.

CHAPTER XXX.

LIABILITY OF PRINCIPAL CONTRACTOR—SUBROGATION—EXEMPTION CONTRACTS.

Sec.
511. Legal relation of employer and workman—When does it exist?
512. Liability of principal contractor.
513. Subrogation—Indemnity.
514. Exemption contracts.

§ 511. Legal relation of employer and workman—When does it exist?—Whether any person is an employé of an employer or not, depends upon whether there exists a contract of service which would create the legal relation of workman (workwoman) and employer (any person, firm, partnership, public, private and municipal corporation). Under the British Act there are specific exceptions: Persons whose annual remuneration exceeds two hundred and fifty pounds, out workers, a member of a police force, a member of one employer family dwelling in his house, and persons engaged in casual employment are excluded from the benefit of the act (sec. 13 of British Act 1906).

What is a Contract of Service?

The alleged employer, from whom compensation was claimed, was a charitable institution, and had instituted a labor yard, and in return for work done therein by persons out of employment, gave such persons their board and lodging and occasionally trifling sums of money. One of such persons having been injured while so engaged, the decision of the county court judge upon these facts alone that applicant had not proved a contract of service was sustained.[1]

[1]Burns v. Manchester, etc., Mission, I B. W. C. C. 305; 125 L. T.

A municipal corporation owned a plat of land adjoining one of the markets, which was occupied by the ruins of an old mill. The corporation through public advertisement sold the building to Todd for fifteen pounds and he was to pull down the building and remove the material. In pulling down the building one of Todd's workmen was fatally injured and his widow brought a claim against both Todd and the corporation. It was held that the corporation was liable as principal.[2]

A distress committee under the unemployment workmen act 1905 provided temporary work for an applicant, in the course of which he was injured. During his incapacity he received poor relief at the rate of ten shillings per week. It was held that the committee were employers within the meaning of the workmen's compensation act of 1906 and liable for compensation.[3]

Under the Ohio workmen's insurance act an "employer" is a person, firm, partnership, municipal, private or public corporation who employs five or more workmen or operatives regularly in the same business, or in or about the same establishment (section 20-1 of act) between whom and some other person there exists a contract of service.

§ 512. Liability of principal contractor.—Section 4 of the British Act of 1906 provides:

Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business contracts with any other person

J. 336; Hiller v. The Governors, etc., 25 T. L. R. 762; Waites v. The Franco-British Exhibition, 25 T. L. R. 441.

[2] Mulrooney v. Todd, etc., II B. W. C. C. 191; 100 L. T. 99.

[3] Gilroy v. Mackie, etc., II B. W. C. C. 269; 46 S. L. R. 325. To the same effect: Porter v. Central, etc., Body, II B. W. C. C. 296; and 1 K. B. 173; Crump v. Lewis, (1908) 1 K. B. 858; Gilroy v. Mackie, etc., (1909) S. C. 466; 46 S. L. R. 325; Murphy v. Guardians of Enniscorthy Union, (1908) 2 Ir. L. R. 609.

(in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with referenece to the earnings of the workman under the employer by whom he is immediately employed.

The provision was invoked in a case where a shop keeper and a billiard saloon keeper determined to open a skating rink. They bought an existing iron building and contracted with a third person to remove it for them to its new position. In the course of the work a laborer in the employ of the contractor was injured and claimed compensation from the skating rink owners as "principals" within the meaning of the section. It was held that they did not come within its meaning.[4]

Another case involving the same section arose where a timber merchant in the course of his business, having entered into a contract to purchase and carry away some growing timber contracted with another party for the felling of the timber and the latter party employed a son, who lived with him to help in the work. The son met with an accident while cutting the timber. It was held that the timber merchant as "principal" was not liable to pay the son compensation,

[4] Skates v. Jones, 103 L. T. 408, 3 B. W. C. C. 460; see also Walsh v. Hayes, 2 B. W. C. C. 202; Waites v. Franco-British Exhibition, 25 T. L. R. 441; 2 B. 199—C. A.

as he was expressly excluded as a workman under a later section of the act.[5]

A municipal corporation may be a principal within the meaning of the section.[6]

The expression, "work undertaken by a principal," is generally considered to import some obligation on the part of the principal to do the work and no contract of service with the applicant.[7]

In one of the cases a ship owner contracted with a party to clean the ship's boilers. This party engaged a number of boiler makers to do the work, and one of them was injured by an accident. The injured person received his wages from and was subject to the orders of his immediate employers in the performance of his work and a slight supervision was exercised by the foreman of the ship owner. It was held that the injured workman was not in the employment of the ship owner and not entitled to receive compensation from him and that the work of boiler scaling was not work undertaken by the ship owner in the course of or for the purposes of his trade or business in the sense of section four.[8]

§ 513. Subrogation—Indemnity.—It is specially provided by the British Act of 1906 that the person by whom the compensation is paid, and any person who has been called on to pay an indemnity under the provision of the act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in

[5] Marks v. Carne, 100 L. T. 950, 2 B. W. C. C. 186.

[6] Mulrooney v. Todd, 100 L. T. 99, 2 B. W. C. C. 191.

[7] Walsh v. Hayes, 43 Ir. L. T. 114, 2 B. W. C. C. 202.

[8] Spiers v. Eldershie Steamship Co., 46 Scotch L. R. 893, 2 B. W. C. C. 205; but see Pollard v. Goole, etc., Towing Co., 3 B. W. C. C. 360.

default of agreement be settled by action, or, by consent of the parties, by arbitration.[8a]

The evidence in one of the cases showed that a workman was injured as the result of a breach, by two fellow workmen, of certain regulations of the Factory and Workshop Act. The workmen were convicted and fined for this violation of the act. It was held that notwithstanding the infliction of a fine upon the fellow-workmen under the Factory Act, an action for damages still lay against them at the suit of the injured man, and they therefore were liable to indemnify the employers under section 6 of the workmen's compensation act. A fellow-workman is a "person other than the employer" within the meaning of that section.[9]

§ 514. Exemption contracts.—The British act applies notwithstanding any contract to the contrary made after its enactment and an agreement between the injured employé and his employer will not be sustained where it contains terms different to those specified and less advantageous to the employer.[10]

It is very clear that such a contract made by an infant will not be upheld where it is not beneficial to the infant.[11]

[8a] Evans v. Cook, 7 W. C. C. 41; Pacific Nav. Co. v. Pugh, 23 T. L. R. 622, 9 W. C. C. 39.

[9] Gibson v. Dunkerley, 3 B. W. C. C. 345; Lees v. Dunkersley, 103 L. T. 467, 4 B. W. C. C. 115; Lankester v. Miller, 4 B. W. C. C. 80.

[10] British, etc., Nav. Co. v. Neil, 3 B. W. C. C. 413.

[11] Morter v. Great Eastern R. Co., 2 B. W. C. C. 480, 126 L. T. J. 171.

CHAPTER XXXI.

AMOUNT OF COMPENSATION.

Sec.
515. Right to make claim for compensation is personal.
516. Compromise of claims.
517. Lump sum payment.
518. Right to compensation as dependent on proximate cause of death.
519. Compensation for total incapacity.
520. Loss of sight—As total or permanent disability.
521. Partial incapacity due to clumsiness on recovery.
522. Exaggeration of condition.
523. Disability prolonged by failure to take exercise.
524. Pain and suffering not recompensed.
525. Average weekly earnings.
526. Average weekly earnings—Grade of employment in which injuries received.
527. Average weekly earnings—Breaks in employment.
528. Average weekly earnings—Inclusion of allowances and gratuities.
529. Average weekly earnings—Deduction of sums paid helper.
530. Average weekly earnings—Consideration of earnings of others in the same employment.
531. Reduction of compensation by reason of change of circumstances.
532. Reduction of compensation because of ability to do light work.
533. Effect of bona fide efforts to obtain employment.
534. Diminution in earnings of injured employé owing to general fall in wages.
535. Deduction of hospital fees.
536. Deduction of compensation while injured workman in prison.
537. Effect of acceptance of relief funds for injury.
538. Deductions from compensation to dependents.
539. Consideration of profits of business carried on by injured workman.
540. Effect of receiving same or increase in earnings after injury.
541. Probable earnings of infant.
542. Injuries after brief employment.
543. Death of injured workman while receiving compensation for previous injury.
544. Amount of compensation where dependent illegitimate.
545. Effect of certificate of termination of incapacity.

§ 515. Right to make claim for compensation is personal.—Dependents who fail to make their claims

for compensation within the time fixed by law are not saved by proceedings instituted by other claimants within the proper time. This principle was announced in a case where the father of a workman killed by accident commenced action for damages against the employer of his son and on the failure of this action asked for compensation to be assessed in accordance with the compensation act. The action was dismissed but was reserved as a proceeding for assessing compensation. The mother and sisters of the deceased thereupon also claimed compensation in the proceedings by the father as dependents. They had made no claim previously and much more than six months had passed since the death. It was held that the right to the alternative proceeding was a personal privilege to the one who brought the action and that the six months for claim having expired the mother and sisters were not entitled to compensation.[1]

§ 516. Compromise of claims.—The compromise of a claim for compensation will generally be upheld where fairly entered into, but the compromise of a claim or award will not be sustained where imposition has been practiced to bring about such settlement. It is essential to fairness in this respect that the workman should understand the nature and terms of the papers he signs.[2]

It is usually a question for the jury whether the workman understood the nature and effect of receipts signed by him.[3]

In one of the cases a judge refused to record a memorandum of agreement for a lump sum settlement on the ground of inadequacy. The workman then ap-

1 Kyle v. McGintys, 48 Scotch L. R. 474, 4 B. W. C. C. 389.

2 Huckle v. London County Council, 4 B. W. C. C. 113; Macandrew v. Gilhooley, 48 Scotch L. R. 511, 4 B. W. C. C. 370; Beech v. Bradford Corporation, 4 B. W. C. C. 236.

3 Huckle v London County Council, 4 B. W. C. C. 113.

plied for compensation, and the judge, finding that the incapacity was no longer due to the accident and that the amount in fact paid under the abortive settlement was enough to cover all compensation due for a short period during which the incapacity had been due to the accident, awarded in favor of the employers.[4]

A settlement was set aside in one case where the workman signed a receipt in full settlement of his claim for a specified amount and the actual amount paid him was only about half the amount specified.[5]

In another case a discharge was held ineffective which purported to be in full satisfaction of claims past and future and was signed by the workman in the belief that he was merely signing a receipt for compensation past due. The court held that the agreement would not bar the employé from recovering future compensation.[6]

The fact that the employer, as one condition for settlement, agrees to keep the workman in his employ does not prevent the discharge of such workman for a good and sufficient reason after a reasonable interval.[7]

In any award of compensation the employer should have credit for amounts paid by him to the employé for which he was not legally liable.[8]

So credit should be given the employer for sums paid the employé under an ineffective compromise of the claim.[9]

§ 517. Lump sum payment.—The British act allows a redemption of weekly payments into a lump sum present payment. The cases do not lay down strict

[4] Beech v. Bradford Corporation, 4 B. W. C. C. 236.

[5] Hawkes v. Coles, 3 B. W. C. C. 163.

[6] Ellis v. Lochgelly Iron, etc., Co., 46 Scotch L. R. 960, 2 B. W. C. C. 136.

[7] Lawrie v. Brown, 45 Scotch L. R. 477, 1 B. W. C. C. 137.

[8] Kempson v. The Moss Rose, 4 B. W. C. C. 101; see also McDermott v. The Tintoretto, 103 L. T. 769, 4 B. W. C. C. 123.

[9] Horsman v. Glasgow Navigation Co., 3 B. W. C. C. 27.

rules for estimating the amount of such payments. The court is not required to figure on the actual value on the basis of age and expectancy but may figure on a business footing as between parties.[10]

The estimate should not be made on the basis of a permanent disability where the injury is such that it may be greatly lessened or entirely overcome.[11]

In such a computation the court may treat the loss of an arm as a permanent incapacity.[12]

"The loss of an arm is necessarily a permanent, though it need not be and often is not a total incapacity; for the capacity of a one armed man can never be of the same quality as that of a man with two arms; though it may be that at certain occupations and under certain conditions the former can earn as good a wage as the latter.[13]

§ 518. Right to compensation as dependent on proximate cause of death.—Where the death results from the accident the law does not concern itself with the question whether the death was the natural and probable consequence of the particular injury.[14]

§ 519. Compensation for total incapacity.—An award for total incapacity was sustained where a medical referee reported that an injured seaman could perform light work if he wore a truss but that he was not fit for work as a seaman or for lifting.[15]

So there was a case of total incapacity where the employé recovered sufficiently to resume work but was refused work by his employer and he was unable to

[10] Grant v. Conroy, 6 W. C. C. 153.

[11] O'Neil v. Anglo-American Oil Co., 2 B. W. C. C. 434.

[12] National Telephone Co. v. Smith, 2 B. W. C. C. 417.

[13] National Telephone Co. v. Smith, 46 Scotch L. R. 988, 2 B. W. C. C. 417.

[14] Dunham v. Clare, 66 L. T. 751, 4 W. C. C. 102.

[15] Hendrickson v. The Swanhilda, 4 B. W. C. C. 233.

find employment because of his condition with its tendency to a break down.[16]

It is a question of fact in every case whether an injured workman has completely recovered or not; and if the judge finds that the workman has completely recovered he has jurisdiction in a proper case to terminate the weekly payments.[17]

§ 520. Loss of sight as total or permanent disability.—The loss of a single eye is obviously a partial disability permanent in its nature.[18]

The loss of one eye may operate as an injury to the other to such an extent as to make the disability total, but the burden is on the injured workman to establsih that fact and that the injury to the other eye was due to the accident.[19]

In one of the cases a carman received a blow on the temple which injured his eye so much that he could only perceive hand movements in front of it, and it was useless for many purposes. Ten years later this same eye was struck by his horse's tail and inflammation ensued. The eye was removed in hospital. It was held that the incapacity was due to the second and not the first injury.[20]

§ 521. Partial incapacity due to clumsiness on recovery.—In one of the cases a waitress received an injury to her finger which caused it to become stiff and prevented her working as efficiently as before. She received compensation for some time and then returned to her old work at her old wages. She could not work as well as before and complaint about her clum-

[16] Thomas v. Fairbavin, 4 B. W. C. C. 195.

[17] Reyners v. Makin, 4 B. W. C. C. 267.

[18] Arnott v. Fife Coal Co., 48 Scotch L. R. 828, 4 B. W. C. C. 361.

[19] McGhee v. Summerlee Iron Co., 48 Scotch L. R. 807, 4 B. W. C. C. 424; see also Lee v. Baird, 45 Scotch L. R. 717. 1 B. W. C. C. 34.

[20] Martin v. Barnett, 3 B. W. C. C. 146; see also Ball v. Hunt, 104 L. T. 327, 4 B. W. C. C. 225.

siness was made by her employers and she left work and without any attempt to find other work claimed compensation. It was held that she could not work as well as before and that she was therefore partially incapacitated.[21]

§ 522. Exaggeration of condition.—The compensation is subject to readjustment where there is such recovery from the injury that the workman can return to light work. In the proceeding for this readjustment the court may thoroughly investigate the claim of the workman that he has not recovered by hearing testimony that the workman is exaggerating his condition.[22]

An injured workman was paid compensation for 61 weeks by his employers. Subsequently the employers offered the workman light work, which he refused without attempting to do it. The county court judge held that the workman had acted unreasonably in refusing to go and see what the work offered was, and that, if he had accepted the offer and returned to work, by the date of the arbitration he would have been under no disability. He therefore stopped compensation, but made a declaration of liability. It was held that the decision was on a question of fact, and that there was evidence to support it.[23]

§ 523. Disability prolonged by failure to take exercise.—The injured workman is not entitled to compensation for the time that his disability is prolonged by his own neglect to take the exercise necessary to restore him to a fit condition. "The County Court Judge has found that the workman's present inability to do his ordinary work was due only to want of condition arising out of long-continued and unnecessary idle-

21 Ward v. Miles, 4 B. W. C. C. 182.

22 Price v. Burnyeat, 2 B. W. C. C. 337.

23 Furness, Withy & Co. v. Bennett, 3 B. W. C. C. 195; but see Burgess v. Jewell, 4 B. W. C. C. 145.

ness. His muscles had become flabby, and he did not do what a reasonable man would do, viz., take some form of exercise to put his muscles right again. It was said on his behalf, some medical man must tell him so. With that contention I disagree. A reasonable man would decide the matter for himself. Cases of this kind require the most careful investigation, that people who have recovered from the effects of an accident do not become merely pensioners of their employers."[24]

§ 524. Pain and suffering not recompensed.—The British compensation act does not authorize any allowance for pain and suffering. If the workman receives the same compensation after the accident that he did before the accident, he is not entitled to compensation for the pain he suffers as a result of the accident. The allowance is confined to the time lost as the result of the accident.[25]

§ 525. Average weekly earnings.—The British act of 1906 requires that the average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Under this act where the workman has been in the same employment for three years if the injury results in death, or for one year if the injury is a non-fatal one the actual history of the workman furnishes adequate material for fixing the compensation. The dominant principle is that such earnings are to be computed in the manner best calculated to give the rate per week at which the workman was remunerated, not necessarily at the precise time of the accident. When computation of the particular man's rate is impossible regard may be had to analogous cases. Computation may be impossible not only where no materials for ar-

[24]Upper Forest, etc., Fin Plate Co. v. Grey, 3 B. W. C. C. 424; see also David v. Windsor Steam Coal Co., 4 B. W. C. C. 177.

[25] Iron v. Davis, 80 L. T. 673, 1 W. C. C. 26.

riving at the rate of remuneration exist but where such materials are lost or inavailable. The term "grade" refers to the particular rank in the industrial hierarchy to which the workman belongs. The grade and average earnings of the grade having been ascertained there is no obligation to adopt those earnings in all cases as the measure of compensation of the workman. The personal element must then be considered. The words "employment by the same employer" mean any step up or down and is to be regarded as commencing a fresh employment. Absence due to illness or matters beyond the control of the workman are to be disregarded and the employment considered as continuous notwithstanding such absence.[26]

Where a workman, who is partially incapacitated as the result of an accident, afterwards accepts from his employer work of a different class from that in which he was injured, and it is proved that he is able to earn certain wages in such other employment, the court cannot award him by way of compensation a greater sum than the difference between his wages before the accident and the wages offered him after the accident.[27]

§ 526. Average weekly earnings—Grade of employment in which injuries received.—It is the general rule that the compensation is based on the wages received in the grade at which the workman was engaged at the time he received his injuries, and this though he was capable of performing services in a higher grade and as a matter of fact had been employed on former occasions in the higher grade employment.[28]

Under the act of 1897 the period of employment for assessing average weekly earnings was not affected by a change of the employment and a consequent change

[26] Perry v. Wright, 1 B. W. C. C. 35; 98 L. T. 327.
[27] Brookfield Linen Co. v. Clugston, 44 Ir. L. T. 10.
[28] Babcock v. Young, 48 Scotch L. R. 298, 4 B. W. C. C. 367.

in the rate of the wages. When during employment for twelve months there has been a change in the rate of wages, the average was taken on the earnings for the whole twelve months, and not on the earnings at the time of the accident.[29]

§ 527. Average weekly earnings—Breaks in the employment.—Where there has been a break in the employment during the previous twelve months the period of calculation in assessing the average weekly earnings is the period of the employment. The test of whether there has been a break in the employment is whether the relation of master and servant has been continued or not. A mere interval in the time the contract of service is running is not sufficient.[30]

The recognized and known incidents of the employment must be taken into consideration. Thus, in a case in which the injured workman was retained in the employment during the whole year, but owing to the fact that the work was discontinuous, he could not have worked for more than thirty-six weeks during the twelve months preceding the accident, fourteen weeks having been taken up with stoppages in the ordinary course of the employment, and two weeks having been recognized as holidays, and he did not in fact work more than thirty-three weeks, it was held that the basis of the compensation was 36/52 of his average weekly earnings during the thirty-three weeks he had actually worked.[31]

In calculating average weekly earnings, enforced holidays cannot be treated as dies non, so as to exclude them and the week in which they occur from the general average.[32]

29 Price v. Marsden, 15 T. L. R. 184, 1 W. C. C. 108.

30 Jones v. Ocean Coal Co., 15 T. L. R. 339, 1 W. C. C. 94.

31 Anslow v. Cannock, etc., Colliery Co., 100 L. T. 786, 2 B. W. C. C. 365; see also Kelly v. York St. Spinning Co., 43 Ir. L. T. J. 81, 2 B. W. C. C. 493.

32 Faircloth v. Waring, 8 W. C. C. 99.

Intervals from work not amounting to a break in the employment should not be excluded in calculating average weekly earnings. If a man has been employed for twelve months, but has taken odd weeks off, the total amount of his earnings should be divided by 52 in order to calculate his average weekly earnings.[33]

The absence of a laborer from work for eight days has been held evidence of a break in the employment.[34]

Regular employment for a fixed number of days a week is a continuous employment for the purpose of determining the number of weeks for which the weekly earnings are to be averaged. Wages in irregular employments elsewhere are not to be taken into account.[35]

In one of the cases a collier tried to resume his old work as a collier with the same employers a year after receiving his injuries, but being unable to do so, he was given work by them as a windroad man. About a month after, he died from an accident within the meaning of the compensation law. It was held that there had been a break in the continuity of his employment, and that his compensation should be based on his earnings as a windroad man.[36]

§ 528. Average weekly earnings—Inclusion of allowances and gratuities.—The earnings of an employé include the rent of a house furnished by his employer,[37] and board and clothing furnished as part of his wages.[38]

[33] Keast v. Barrow Hematite Steel Co., 15 T. L. R. 141, 1 W. C. C. 99; Appleby v. Horsley Co., 15 L. T. 410, 1 W. C. C. 103.

[34] Giles v. Belford, 88 L. T. 754, 5 W. C. C. 136.

[35] Hathaway v. Argus Printing Co., 3 W. C. C. 177, 83 L. T. R. 465.

[36] Williams v. Wynnstay Colliers, 3 B. W. C. C. 473 (1910).

[37] Brown v. South Eastern R. Co., 3 B. W. C. C. 428.

[38] Sharpe v. Midland R. Co., 88 L. T. 545, 5 W. C. C. 128; Midland R. Co. v. Sharpe, 20 T. L. R. 546, 6 W. C. C. 119; Great Northern R. Co. v. Dawson, 92 L. T. 145, 7 W. C. C. 114.

The term also includes the value of articles furnished the employé as part of his equipment,[39] and gratuities by the public in the for mof tips.[40]

The term will likewise include retainers paid to seamen as members of the naval reserve.[41]

In the wages of a ship steward are included his extra wages and the profits to which he is entitled by the sale of whisky.[42]

Where food and lodging is supplied the workmen by his employer the test of its value is the value to the workman.[43]

§ 529. Average weekly earnings—Deduction of sums paid helper.—The amounts paid by a miner to his helper should be deducted to obtain the average weekly wages of the miner.[44]

§ 530. Average weekly earnings—Consideration of earnings of others in the same employment.—Where no rate of wages has been expressly stipulated for and no payment made, an agreement may be implied for the usual rate of wages for that particular class of work in that locality at that time.[45]

Where there is no presumption of continuation of the employment, the weekly earnings are what the workman has earned in that employment, and not the

[39] Abram Coal Co. v. Southern R. Co., 19 T. L. R. 579, 5 W. C. C. 125.

[40] Penn v. Spiers, 24 T. L. R. 354, 1 B. W. C. C. 401; Knott v. Tingle, 4 B. W. C. C. 55.

[41] The Raphael v. Brandy, 4 B. W. C. C. 307; Brandy v. The Raphael, 4 B. W. C. C. 6.

[42] Skailes v. Blue Anchor Line, 4 B. W. C. C. 6, (1911) 1 K. B. 360.

[43] Rosenquist v. Bowring, 1 B. W. C. C. 395, 98 L. T. 773; Dothie v. McAndrew, 98 L. T. 495, 1 B. W. C. C. 308.

[44] McKee v. Stein, 47 Scotch L. R. 39, 3 B. W. C. C. 544.

[45] Jones v. Walker, (1899) 105 L. T. 579, 1 W. C. C. 142.

ordinary standard weekly wage earned by others engaged in a similar occupation.[46]

§ 531. Reduction of compensation by reason of change of circumstances.—The court may reduce the amount of compensation where a change of circumstances in the condition of the workman renders him capable of earning more than his condition warranted at the time of the award. In one of the cases a workman in a steel rolling mill had the sight of one eye impaired by an accident. He received compensation for some time and the employers then applied to review the payments. Conflicting medical evidence was given as to the state of the man's vision and the judge referred the matter to a medical referee who reported that the man would see better with glasses. The judge on this found that the man was physically able to work, but that as a man with glasses was unlikely to obtain employment in a steel rolling mill, he was not commercially "able to earn" within the meaning of the law and dismissed the application to review. It was held that there was evidence of a change of circumstances which the judge ought to have considered and that the case must go back to him.[47]

§ 532. Reduction of compensation because of ability to do light work.—Where the condition of the injured workman improves so that he is capable of doing light work, the employer may apply for a reduction to the extent of his earnings in the light employment.[48]

Such an application is not to be defeated by the workman on the ground that his employers did not give him light work to do and that he was unable to obtain such work at other places. The sole question is whether the workman can do such light work.[49]

[46] Bartlett v. Tutton, 85 L. T. 531, 4 W. C. C. 133.

[47] Guest v. Winsper, 4 B. W. C. C. 289 (1911).

[48] Cardiff Corporation v. Hall, 4 B. W. C. C. 159.

[49] Boag v. Lochwood Collieries, 47 Scotch L. R. 47, 3 B. W. C. C.

In one of the cases a workman who had been in receipt of full compensation for some months, entered into agreement with his old employers to do light work at his former rate of wages and that in the event of total incapacity recurring, his rights under the act should revive. He again became totally incapacitated and claimed compensation which was paid. He was subsequently offered light employment at reduced wages with one-half the difference between his former and present wages. This offer he refused, claiming that according to the terms of the agreement he was entitled to full wages. The employers maintained that the agreement terminated when the subsequent claim for compensation was made and that the workman was relegated to his rights under the act. It was held that the agreement terminated on the recurrence of total incapacity and the claim for compensation being made, and did not afterwards revive.[50]

In another case a miner who had injured one eye so that the use of it was practically destroyed was receiving compensation when his employers offered him work in the coal face. The miner refused although he was physically able to do the work and on review the court held that this was not quite "suitable employment" within the meaning of the act on the grounds (1) that there was some appreciable increase of peril to the remaining eye, and if injuries generally in working at the coal face, and (2) that the consequences of injury to the remaining eye of a one-eyed man were far more serious.[51]

Where the light work is furnished at another place so that the workman must pay something for trans-

549; McNamara v. Burtt, 4 B. W. C. C. 151; Anglo-Australia Steam Navigation Co. v. Richards, 4 B. W. C. C. 247.

[50] Branford v. North Eastern R. Co., 4 B. W. C. C. 84.

[51] Eyre v. Houghton Colliery Co., 3 B. W. C. C. 250.

portation, the adjustment of the compensation should include these added expenses.[52]

The test of simple inability to get work on account of the labor market is wrong; the right test is inability to get work on account of the disability. This was the principle announced in a case where an injured workman in receipt of part wages and reduced compensation was dismissed by his employer owing to slackness of work and he applied for a restoration of full half wages.[53]

§ 533. Effect of bona fide efforts to obtain employment.—If a man has unsuccessfully made reasonable bona fide efforts to obtain employment at work which he is physically capable of performing he is not able to earn anything.[54]

§ 534. Diminution in earnings of injured employé owing to general fall in wages.—Where the injured employé is afterwards accepted in employment by his master in a different capacity but for the same wages he had earned before the accident, the employé may not claim compensation for the reduction in his wages owing to a general fall in wages. It is clear that the change in wages in such a case is not to be attributed to any change in the capacity of the workman to earn wages. "It is plain that when he had so far recovered from the accident as to be able to work and the appellants had again employed him in a different capacity at the same rate of wages, he could not, and in fact he did not claim compensation, and that that position of matters continued for eight years. Now by the shifting of the rate of wages owing to economic causes, and not because of change in his capacity to earn wages, his earn-

[52] Taff Vale R. Co. v. Lane, 3 B. W. C. C. 297.

[53] Dobby v. Pease, 2 B. W. C. C. 370.

[54] Clark v. Gas Light, etc., Co., (1905) 21 T. L. R. 184, 7 W. C. C. 119.

ings have diminished. I am of opinion that that is not a ground on which the sheriff can award compensation. The respondent is in no worse a position than he would have been in if he had never been injured, but had continued throughout to be employed as a shifter. Further, if instead of falling, the rate of wages had risen, as they might have done and may still do, it is plain that the respondent would have reaped the benefit, and, in like manner, the rate of wages having fallen, I think the loss must fall upon him. Of course if the fall in wages had been due to supervening incapacity that would have been a totally different matter."[55]

§ 535. Deduction of hospital fees.—Under the British act the employer may deduct from the compensation the amount paid by him for hospital attendance. This principle was announced in a case where an injured workman was treated in a hospital where the fees were paid by the employers and it was held that the payment was clearly a benefit to the workman within the meaning of the compensation act.[56]

§ 536. Deduction of compensation while injured workman in prison.—In a case where an injured workman receiving weekly compensation was convicted and sentenced to imprisonment for a specified time and the employer claimed that the incapacity to earn wages was no longer due to the accident and claimed a suspension of the weekly payments, the court held that the workman was not entitled to receive his entire weekly earnings while in prison but that a portion of the compensation should be paid for the support of his children during the time of his incarceration.[57]

[55] Merry v. Black, 46 Scotch L. R. 812, 2 B. W. C. C. 372.

[56] Suleman v. The Ben Lomond, 126 L. T. J. 308, 2 B. W. C. C. 499.

[57] Clayton v. Dobbs, 2 B. W. C. C. 488.

§ 537. Effect of acceptance of relief funds for injury.—The fact that an injured workman has received payment from a fund formed for relief in time of personal injury by accident, sickness or burial to which his employers materially contributed before the accident is not an element for consideration in assessing the amount of compensation. A workman's compulsory contributions to such a fund, which are deducted from his wages, do not diminish the amount of his weekly earnings.[58]

§ 538. Deductions from compensation to dependents.—It may be observed generally that dependents are entitled to compensation although weekly payments may have been made to the deceased under the compensation act.[59]

But the dependent in such a case must suffer a deduction of the sum paid to the workman in his lifetime.[59a] And the wages paid by the deceased to an assistant should be deducted in computing the compensation to be paid to his dependent.[60]

Where the dependent is in receipt of poor relief this sum should also be deducted.[61]

§ 539. Consideration of profits of business carried on by injured workman.—Upon a proper application for termination or diminution of award the court should consider the average amount which the workman is earning in a business carried on by himself after receiving the injury.[62]

58 Bullen v. London, etc., Tramway Co., 121 L. T. J. 415, 8 W. C. C. 103.

59 O'Keefe v. Lovett, 4 W. C. C. 109.

59a Williams v. Vauxhall Colliery Co., 23 T. L. R. 591, 9 W. C. C. 120.

60 McKee v. Stein, 47 Scotch L. R. 39, 3 B. W. C. C. 544.

61 Byles v. Pool, 126 L. T. J. 286, 2 B. W. C. C. 484.

62 Norman v. Walder, (1904) 2 K. B. 27, 90 L. T. 531, 6 W. C. C. 124.

An injured workman before the accident earned an average of £94 per annum, i. e. £1 16s. 6d. per week. After the accident he purchased a public house for £100, and deducting interest on capital and all expenses he still made a net profit of £98. On an application to review the employers successfully contended that though the workman had not recovered from his injuries the incapacity to earn had ceased, as he was earning more since the accident than before. It was held that the test was not the man's profits, but the value of the work done had it been offered as services in the open market.[63]

§ 540. **Effect of receiving same or increase in earnings after injury.**—The fact that a workman earns more after the accident than he did before the accident does not give the employer a right to have the payment of compensation ended.[64]

He may, however, have the compensation reduced.[64a]

The amount of compensation recoverable is not limited to half the difference between the earnings before and after the accident.[65]

One of the cases declares bad a rule, to award as compensation,—unless there be some reason to the contrary,—fifty per cent. of the previous average weekly earnings, but so that such compensation when added to the average amount that the injured workman was able to earn after the accident, does not exceed the whole of the previous average weekly earnings.[66]

Where the wages are the same after the accident as before, the workman is not entitled to compensation until he has actually suffered loss through the disability.[67]

63 Paterson v. Moore, 3 B. W. C. C. 541, 47 Scotch L. R. 30.

64 Wilson v. Jackson, 7 W. C. C. 122.

64a Auley v. Neale, 9 W. C. C. 34.

65 Jones v. London, etc., R. Co., 4 W. C. C. 140.

66 Webster v. Sharp, 7 W. C. C. 118.

67 Chandler v. Smith, 1 W. C. C. 19; Cammell v. Platt, 2 B. W.

And this is the case though the wages are earned in another line of employment.[68]

§ 541. Probable earnings of infant.—The British act of 1906 contains the provision that where the workman was at the date of the accident under twenty-one years of age, and the review of the compensation takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding 50 per cent. of the weekly sum which the workman would probably have been earning at the date of the review, if he had remained uninjured but not in any case exceeding one pound.[69]

In one of the cases an infant workman was injured and sustained a rupture and after a few weeks he returned to his former work wearing a truss. A year later his employer applied to terminate the liability and proved that he was earning as much as before the accident. It was held that the fact that an infant workman is earning the same wages as before the accident is not necessarily conclusive that the employers are entitled to have the compensation terminate, but the arbitrator should determine whether the earning capacity was the same as it would have been had he not been injured.[70]

Consideration may be given to the fact that the minor might earn in another class of employment. Thus an infant skilled laborer, during a slack time took an unskilled employment at a low rate and was injured while in this employ and received compensation based on the wages he was receiving when injured. On an application to review, he claimed to be entitled to com-

C. C. 368; see also Humphreys v. London Electric Lighting Co., 4 B. W. C. C. 275.

[68] Cammell v. Platt, 2 B. W. C. C. 368.

[69] Edwards v. Alyn Tin Plate Co., 3 B. W. C. C. 141.

[70] Bowhill Coal Co. v. Malcolm, 47 Scotch L. R. 449, 3 B. W. C. C. 562.

pensation based on the weekly sum he would probably have been earning at his skilled work. It was held that "workman" in the act means the "individual workman," and in estimating the probable earnings of this workman regard may be had to his power to earn money in another employment and in another class of employment than that in which he was working at the time he was injured.[71]

§ 542. Injuries after brief employment.—Where the employé has worked for the same employer for a period less than two weeks, the weekly earnings upon which the amount of compensation is calculated, should be taken to be the hypothetical sum which the workman would, but for the accident, have probably received in the course of a week from the employer in whose service he met with the accident.[72]

In one of the cases it appeared that a trade or working week ended on Thursday night. A man worked six days, from Wednesday to Tuesday, Sunday being excluded. There was evidence that the employment would but for the accident, have continued. It was held that the amount earned in the six days might be considered to be his weekly earnings.[73]

There is no inference of law that a casual laborer employed by the hour will continue in the employment longer than the conclusion of any given hour.[74]

§ 543. Death of injured workman while receiving compensation for previous injury.—Where an injured employé on compensation returns to light work because of inability to perform his duty in the employment in which he was injured, the compensation of the depend-

[71] Evans v. Vickers, (1910) 1 K. B. 554; 102 L. T. 199, 3 B. W. C. C. 126; affirmed (1910) A. C. 444, 3 B. W. C. C. 403, 26 T. L. R. 548; (1910), W. N. 161.

[72] Ayres v. Buckeridge, 85 L. T. 472, 4 W. C. C. 120.

[73] Walters v. Clover, 18 T. L. R. 60, 4 W. C. C. 138.

[74] Case v. Colonial Wharves, 53 W. R. 514, 8 W. C. C. 114.

ent is based on the wages received in the light employment and without regard to the compensation which the deceased workman was receiving. This was the case where a collier at the time of his death was employed at light work in the mine as a battery carrier. He had previously met with an accident in the mine and was at the time of the second accident, which proved fatal, receiving some compensation in addition to the wages for his light work. It was held that the compensation which the deceased workman was receiving could not be taken into account in estimating the earnings in the employment and that the deceased workman had lost his old grade as a collier and belonged in the grade of battery carrier.[75]

§ 544. Amount of compensation where dependent illegitimate.—The compensation awarded an illegitimate dependent cannot exceed the amount the deceased was compelled by law to pay for his support. The fact that the act prescribes a maximum amount to be paid to dependents does not require that this amount should be awarded in every case, but only that reasonable compensation within that limit should be paid. It follows that where the maximum amount has been awarded an illegitimate dependent it will be reduced where the award is in excess of the amount the deceased was compelled to pay for the support of the child.[76]

§ 545. Effect of certificate of termination of incapacity.—Though the medical referee may certify that incapacity has ceased and compensation thereupon terminates, this certificate is not a bar to application for arbitration where the incapacity returns and this is the case though the workman acquiesced in the report of the medical referee.[77]

[75] Gough v. Crawshay, 1 B. W. C. C. 374.

[76] Gourlay v. Murray, 45 Scotch L. R. 577, 1 B. W. C. C. 335.

[77] United Collieries Co. v. King, 47 Scotch L. R. 41, 3 B. W. C. C. 546.

CHAPTER XXXII.

PROCEDURE UNDER BRITISH ACT.

Sec.
546. Election of remedies and estoppel.
547. Necessity of dispute to give arbitrator jurisdiction.
548. Agreement to pay compensation in lieu of submission to arbitration.
549. Rights of workmen against liability insurance company.
550. Recovery of over-payments made by employer.
551. Letters of administration to injured workman on estate of employer.
552. Guardian ad litem for incompetent dependent.
553. Notice of claim for injury.
554. Necessity of stating amount of claim in notice.
555. Amendment of pleadings.
556. Demand of workman that his medical attendant be present at examination.
557. Demand that medical examination take place in attorney's office.
558. Burden of proof on application to reduce compensation.
559. Burden of proof that injury was result of accident.
560. Admissibility of declarations of injured workman.
561. Conclusiveness of certificate of medical referee.
562. Submission to medical referee.
563. Recovery from injury a question of fact.
564. Procedure for apportionment among dependents.
565. Right to make award to terminate at a fixed date.
566. Nominal award to keep proceedings alive.
567. Grant of new trial by arbitrator.
568. Employer bound by application for review.
569. Revision of award on change of circumstances of injured workman.
570. Appeal.
571. Costs and fees.

§ 546. Election of remedies and estoppel.—The British act allows an injured workman who fails in his common-law action against his employer to then make claim for compensation under the act, but this does not authorize a common-law action for damages on a

failure to obtain compensation under the act. The workman is estopped.[1]

The award of compensation likewise operates to estop the workman from maintaining an action against a third person responsible for the injury.[2]

So there was a recovery of damages which operated as an estoppel to claim compensation from the employer where the employé entered into an agreement with a third party responsible for his injury for the payment of his wages during his incapacity.[3]

The question whether there has been a bona fide release from liability may be considered, and if it is found that the release was obtained by fraud it will not bind the workman.[4]

Where the release is obtained from an infant it will be set aside where not beneficial to the infant.[5]

Where a workman who has unsuccessfully sued his employers for damages desires to have compensation for his injury assessed under the compensation act of 1906, the motion for assessment must be made before the verdict is entered and if not so made it will be too late.[6]

§ 547. Necessity of dispute to give arbitrator jurisdiction.—The rule is laid down by the British Court of Appeal that there must be a dispute between the workman and his employer as to the matters mentioned in the statutes before an arbitrator has jurisdiction to entertain proceedings under the act.[7]

[1] Burton v. Chapel Coal Co., 46 Scotch L. R. 375, 2 B. W. C. C. 120; but see Beckley v. Scott, (1902) 2 Ir. L. R. 514.

[2] Mahomed v. Maunsell, 1 B. W. C. C. 269.

[3] Page v. Burtwell, 1 B. W. C. C. 267.

[4] Huckle v. London County Council, 3 B. W. C. C. 536.

[5] Ford v. Wren, 5 W. C. C. 48; Stephens v. Dunbridge Ironworks Co., 6 W. C. C. 48.

[6] Slavin v. Train, 49 Scotch L. R. 93.

[7] Dunlop v. Rankin, 39 Sc. L. R. 146; Mercer v. Hilton, 3 B. W.

In case the employer has shown a willingness to give all that the act requires, an implied agreement exists, and this implied agreement may be registered.[8]

No costs may be taxed against the employer where he does not dispute his liability and pays the compensation into court.[9]

Where the applicant asks for a certain sum for a period during which incapacity admittedly existed and the employers, whilst admitting the claim, ask for a declaration that the incapacity has ceased as from that time, the sheriff must decide this question, as it is a dispute between the parties as to the liability to pay compensation.[10]

§ 548. Agreement to pay compensation in lieu of submission to arbitration.—A valid agreement for compensation is a bar to proceedings in arbitration.[11]

Where such an agreement has been entered into between the parties, and the memorandum is submitted to the judge by the registrar, the judge has no power to do more than declare whether or not the memorandum is one which ought to be recorded and he has no power to make any substantive order dealing with the whole matter, or to treat the agreement as a submission by the employer to pay any sum which the judge under the circumstances may think proper. In other words the agreement is not a consent to submit to arbitration.[12]

In one of the cases there was an agreement entered into between the employer and the employé, by which the employer agreed to pay compensation during the

C. C. 6; Field v. Longden, (1902) 1 K. B. 47; Caledon Shipbuilding Co. v. Kennedy, 43 Scotch L. R. 146.

[8] Jones v. Great Central R. Co., 4 W. C. C. 23.

[9] Lancaster v. Midland R. Co., 1 B. W. C. C. 418.

[10] Bowhill Coal Co. v. Malcolm, 46 Scotch, L. R. 354.

[11] Busby v. Richardson, 3 W. C. C. 54.

[12] Hall v. Furness, 3 B. W. C. C. 72; Mortimer v. Secretan, 100 L. T. 721, 2 B. W. C. C. 446.

time of the incapacity of the workman. The employer ceased the weekly payment under this agreement and thereupon the workman applied for leave to issue execution. It was held proper to allow the employer to show that the incapacity ceased when the payments were discontinued and that no further compensation could be demanded.[13]

§ 549. Rights of workmen against liability insurance company.—It is to be noted at the outset that there is no privity of contract between an employé and a liability insurance company.[14]

In any event the insurance company will not have a greater liability to a workman than it has to the employer himself and a condition in the policy precedent to the claim by the employer must be fulfilled before the workman can claim.[15]

The employé can not demand a payment into court unless there is an admission of liability on the part of the insurer or a finding by a competent tribunal.[16]

§ 550. Recovery of over-payments made by employer.—It is clear that an employer who has overpaid an injured workman may demand a restoration of the over-payment, but it would seem under the English act that the employer could recover the amount of the over-payment only by an action brought for that purpose and that he could not treat such over-payments as payments made on account of future weekly payments of compensation.[17]

[13] Ibrahim Said v. Welsford, 3 B. W. C. C. 233.

[14] Disourdi v. Sullivan Group Min. Co., 15 B. C. 305, 4 B. W. C. C. 462; see also Disourdi v. Sullivan Min. Co., 14 B. C. 273, 2 B. W. C. C. 514.

[15] King v. Phoenix Insurance Co., 3 B. W. C. C. 442.

[16] Disourdi v. Sullivan Group Min. Co., 14 B. C. 256, 2 B. W. C. C. 508.

[17] Hosegood v. Wilson, 4 B. W. C. C. 30; Muller v. Batavier Line, 126 L. T. J. 96, 2 B. W. C. C. 495.

§ 551. Letters of administration to injured workman on estate of employer.—On the death of an employer liable to pay compensation to an injured employé such employé may take out letter of administration on the estate where persons entitled to take out such letters refuse to do so.[18]

§ 552. Guardian ad litem for incompetent dependent.—Where the dependent entitled to compensation is incompetent the court should appoint a guardian ad litem to appear for him in the proceedings. In one case proceedings under the act of 1906 were brought on behalf of a daughter, who had been residing with the deceased workman and acting as a housekeeper, and his wife, who was an inmate of an insane asylum, and the matter was settled as between the employer and the daughter, by the employer agreeing to pay a certain amount which was lodged in court, and, no guardian ad litem for the wife having been appointed, an application was made by the superintendent of the asylum of which the wife was an inmate to have the said sum apportioned between the daughter and the widow on the basis of both of them being dependents of the deceased. It was held that as none of the parties were before the court there was no jurisdiction to make an order.[19]

§ 553. Notice of claim for injury.—Where the law does not fix a definite time for filing the claim for compensation it is the duty of the injured person to file the claim as soon as practicable after the accident. There was a failure to file as soon as practicable where a workman saw his employer twice within two weeks after the accident but did not mention the accident, though he claimed he sent notice to the master by a messenger on the following day and some three weeks afterward sent a notice by registered post, but the employer

[18] In re Byrne, 44 Ir. L. T. 98, 3 B. W. C. C. 591.

[19] Kerr v. Stewart, 43 Ir. L. T. 119, 2 B. W. C. C. 454.

denied having received either of these notices, but did receive a notice from the attorney of the injured workman a month after the injury was received.[20]

Where the notice of the accident is not served as soon as practicable the workman has the burden of showing that the employer was not prejudiced by the delay.[21]

And generally speaking this burden of proof of lack of prejudice is on the workman, where the notice in any respect has not been given agreeably to the provisions of the act.[22]

It has been held that a mere notice of injury is not a claim for compensation or a proceeding to recover compensation.[23]

In one of the cases an injured workman was waited upon by an agent of an insurance company, with whom his employer was insured, who endeavored to get him to accept compensation and by another party who advised him not to accept compensation but to claim damages. The workman eventually decided not to accept compensation and put the matter into a lawyer's hands, who, however, carried nothing to conclusion with the result that the six months allowed by the act for making a claim expired. In an arbitration at the instance of the workman the arbitrator found that the workman was barred from prosecuting his claim and dismissed the application. It was held that as no claim had been made within the six months, the application was rightly dismissed.[24]

[20] Leach v. Hickson, 4 B. W. C. C. 153.

[21] Burrell v. Holloway, 4 B. W. C. C. 239; Hughes v. Coed Talon Colliery Co., 100 L. T. 555, 2 B. W. C. C. 159; Tibbs v. Watts, 2 B. W. C. C. 164; Leach v. Hickson, 4 B. W. C. C. 153.

[22] Hancock v. British Westinghouse Electric Co., 3 B. W. C. C. 210; Roberts v. Crystal Palace Football Club, 3 B. W. C. C. 51.

[23] Perry v. Clements, 3 W. C. C. 56; Johnson v. Wootton, 4 B. W. C. C. 258.

[24] Devons v. Anderson, 48 Scotch L. R. 187, 4 B. W. C. C. 354.

The employer is prejudiced by a delay which causes him to lose his right to indemnity against an insurance company.[25]

It is an excuse for failure to give timely notice that the injury received did not cause disability until some time after the accident.[26]

So it has been held a sufficient excuse that the applicant was abroad at the time of the death of the workman and returned as soon as possible and after returning had been wrongfully advised as to his legal rights.[27]

Ignorance of the law is not generally an excuse for failure to give notice.[28]

The law excuses a mistake but ignorance of the law is not a mistake. "A mistake means that a man takes a wrong view as to the construction or effect of an act of Parliament, if it be a mistake of law. A mistake of fact may be that the notice is given to some person whom the workman believed to be an agent or a person entitled to receive the notice when he was not such. But 'mistake' is not identical with 'ignorance.' That is really what the argument for the respondent means. Then is it a 'reasonable cause?' Can it be a reasonable cause for a man not giving a notice, that he was not aware of the act of Parliament at all? In my opinion it is not. I think that these words are intended to meet an entirely different class of case. If, for instance, the employer has been paying compensation for a time without formal notice of claim, that may be a very good 'reasonable cause' why the workman did not make the formal claim within the six months. I merely give that as an illustration which is quite sufficient, I

[25]Barker v. Holmes, 6 W. C. C. 52, 117 L. T. J. 158; but see Butt v. Gellyceidrim Colliery, 3 B. W. C. C. 44.

[26] Tibbs v. Watts, 2 B. W. C. C. 164.

[27] Smith v. Pearson, 2 B. W. C. C. 468.

[28] Roles v. Pascall, 104 L. T. 298, 4 B. W. C. C. 148; Bramley v. Evans, 3 B. W. C. C. 34.

think, to satisfy the words of the section, and which is quite consistent with good sense."[29]

In one of the cases a workman met with an accident on December 15, 1908, left work on the 24th, and went to hospital on January 2, 1909, where he had his foot amputated for tuberculosis of the joint, which he attributed to the accident. The respondents denied that the tuberculosis was due to the accident, and further said they had no notice of an accident until April 9, 1910, and that they were thereby prejudiced in their defense. It was held that that notice was not given as soon as practicable, and the employers were thereby prejudiced in their defense.[30]

The employer may waive his right to a written notice and there is such a waiver where after verbal notice the employer pays and the workman accepts a weekly payment during his incapacity.[31]

The statement in an answer that compensation has been paid the workman is equivalent to an admission that a claim has been made by the workman.[32]

§ 554. Necessity of stating amount of claim in notice.—It is not necessary that the injured workman in making his claim for compensation specify the amount claimed by him. "If the act had imposed upon a workman the duty of specifying the amount which he demanded when making the claim, it might have been thought unfortunate because it would often make the workman ask as a matter of prudence for the maximum he could possibly recover. * * * It is enough that the act does not say the amount is to be specified, and with all respect he must construe it as it stands."[33]

[29] Roles v. Pascall, 4 B. W. C. C. 148.

[30] Stronge v. Hazlett, 44 Ir. L. T. R. 10; 3 B. W. C. C. 581.

[31] Davies v. Point of Ayr Colliers Co., 2 B. W. C. C. 157.

[32] Lowe v. Myers, 95 L. T. 35, 8 W. C. C. 22.

[33] Thompson v. Gould, (1910) A. C. 409, 103 L. T. 81, 3 B. W. C. C. 392.

§ 555. Amendment of pleadings.—Under the British Columbia Act of 1902, the arbitrator has the same powers as to the amendment of pleadings in proceedings before him as a judge has in a civil action.[34]

Great strictness is not demanded in pleadings and documents in the arbitration proceeding.[35]

§ 556. Demand of workman that his medical attendant be present at examination.—A workman who refuses to be examined by the physician of his employer unless his own medical adviser is present can not be said to "refuse to submit himself to such examination or obstruct the same," within the meaning of the British Compensation Act of 1906.[36]

But this demand for the presence of the personal medical adviser must be reasonable. Where the workman makes the demand when there are no special circumstances in the case calling for the presence of his medical attendant, his action may amount to a refusal within the meaning of the act.[37]

"The purpose of the examination is a legitimate and proper purpose. It is that the employer may obtain from a man of skill an opinion as to the workman's then condition in order that he may consider whether he will be a party to a litigation, or will agree to give reasonable compensation without litigation to the man who has been injured. He ought, I think, to be allowed to do that—except in special circumstances—without being interfered with by anybody or watched by anybody, provided he employs a proper medical practitioner well qualified to make the examination and to supply him with a report."[38]

34 Moore v. Crow's Nest Pass Coal Co., 15 B. C. 391, 4 B. W. C. C. 451.

35 Lowe v. Myers, 2 K. B. 265, 8 W. C. C. 22.

36 Devitt v. The Banbridge, (1909) 2 K. B. 802, 2 B. W. C. C. 383.

37 Morgan v. Dixon, 48 Scotch L. R. 296, 4 B. W. C. C. 363.

38 Morgan v. Dixon, 48 Scotch L. R. 296, 4 B. W. C. C. 363.

§ 557. Demand that medical examination take place in attorney's office.—It would seem clear that an attorney's office is not, in ordinary circumstances, a proper place at which to hold a medical examination. Refusal to undergo an examination except in the presence of one's attorney may amount to a refusal to undergo the examination at all. This was the conclusion in a case where a workmen in receipt of compensation under the act was required by his employers to submit himself for examination by a certain duly qualified medical practitioner and the workman refused to do so unless the examination was held at the office of his attorney or in the presence of his attorney. The employers repeated the request but stated that the medical adviser of the workman might attend at the examination. His refusal to submit to the examination unless these conditions were complied with was held a refusal to submit to examination within the meaning of the law.[39]

§ 558. Burden of proof on application to reduce compensation.—The employer has the burden of proof of his contention that circumstances have changed to such an extent as to warrant a reduction in the amount of the compensation.[40]

This is the rule where the employer contends that the incapacity has ceased,[41] or has decreased to such an extent as to permit the performance of light work.[42]

§ 559. Burden of proof that injury was result of accident.—The workman carries the burden of proving that his injury was caused by the accident and where he fails to do so, and where the evidence as to the cause of the injury is equally consistent with an accident, and

39 Warby v. Plaistowe, 4 B. W. C. C. 67.
40 Maundrell v. Dunkerton Collieries Co., 4 B. W. C. C. 76.
41 Quinn v. McCallum, 40 Scotch L. R. 141, 2 B. W. C. C. 339.
42 Proctor v. Robinson, 3 B. W. C. C. 41.

with no accident, compensation may not be awarded him.[43]

§ 560. Admissibility of declarations of injured workman.—The statements made by an injured man as to his bodily or mental feelings are admissible, but those made as to the cause of his illness are not to be received in evidence.[44]

The rule applies to statements made by a deceased workman to a fellow workman as to the cause of his injury.[45]

But there is authority that a statement as to the cause of the accident made by the injured person to a physician may be received.[46]

§ 561. Conclusiveness of certificate of medical referee.—The English courts attach the greatest importance to a certificate of a medical referee on the question of restoration of the capacity of the injured workman. This was the conclusion in a case where employers applied to review payments under a registered agreement and put in evidence a certificate of a medical referee obtained in accordance with the compensation law as proof that the workman was fit to work. The workman tendered medical evidence in contradiction, but the court rejected it on the ground that the certificate was conclusive and this position was sustained by the reviewing court.[47]

An arbitration is not rendered incompetent by reason of the surgeon's certificate not being obtained or produced until after the commencement of arbitration proceedings.[48]

43 Banabas v. Bersham Colliery Co., 103 L. T. 513, 3 B. W. C. C. 216; Thackway v. Connelly, 3 B. W. C. C. 37.

44 Gilbey v. Great Western R. Co., 102 L. T. 202, 3 B. W. C. C. 135.

45 Penn v. Spiers, 1 B. W. C. C. 401.

46 Wright v. Kerrigan, 45 Ir. L. T. 82, 4 B. W. C. C. 432.

47 Sapcote v. Hancock, 4 B. W. C. C. 184.

48 Taylor v. Burnham, 2 B. W. C. C. 247.

§ 562. Submission to medical referee.—The County Court Judge, under the British Statute has the right to submit the question of injury to a medical referee in cases where the medical evidence is conflicting. He may make such submission in the case of a deceased workman although the statute seems to confine the matter of submission to referee to the case of injuries to living workmen.[49]

The County Court Judge, however, is not bound by the report of the referee but may exercise an independent judgment.[50]

§ 563. Recovery from injury a question of fact.—The question whether an injured workman has recovered sufficiently to warrant a reduction of the compensation is a question of fact and not one of law.[51]

In one of the cases the finger of an employé was injured and compensation was paid under a registered agreement. Some five months later, the workman admitted to the physician of his employer that he was able to return to work, but when the employers, three months thereafter applied to terminate the agreement, the finger was slightly tender. The arbitrator terminated the compensation and refused to make a suspensory award. The court held that the decision of the arbitrator was on a question of fact and there was evidence to support it.[52]

§ 564. Procedure for apportionment among dependents.—Where the amount of the compensation to be paid to dependents is agreed upon it is not necessary to make a request for arbitration, naming the employer as respondent, to enable such amount to be apportioned

49 Carolan v. Harrington, (1911) 2 K. B. 733, 4 B. W. C. C. 253.

50 Quinn v. Flynn, 44 Ir. L. T. 183, 3 B. W. C. C. 594.

51 Cunningham v. McNautgton, 47 Scotch L. R. 781, 3 B. W. C. C. 577; Leeds, etc., Canal Co. v. Hesketh, 102 L. T. 663, 3 B. W. C. C. 301.

52 Goodall v. Kramer, 3 B. W. C. C. 315.

among the dependents of the deceased, but the sum should be brought and lodged in the County Court to the credit of the applicant and the respondent.[53]

And this is the rule even where there are persons under disability among the dependents so that no absolute agreement can be reached, yet there can be a conditional agreement to be sanctioned by the proper court on their behalf. The employer after payment into court is freed from further responsibility.[54]

§ 565. Right to make award to terminate at a fixed date.—The court has no power to make an award terminable at a future date. The only power given the judge is to make the award during the incapacity of the workman.[55]

§ 566. Nominal award to keep proceedings alive.—Under the English act, a county court judge has jurisdiction to make a suspensory award, of, say, one penny a week, or a declaration of liability, it matters not which, for the purpose of keeping alive the workman's claim for compensation and the right to come back to the judge in the event of new circumstances arising which render such a course appropriate.[56]

The entry of such an order is not obligatory. Whether it is to be entered in any case would seem to be a question of fact with which a reviewing court will not interfere.[57]

And generally, where the court has jurisdiction to make an order terminating compensation and he does terminate it on medical evidence which shows a restoration to full capacity, the court is not bound to make a

[53] Harlan v. Radcliffe, 43 Ir. L. T. 166, 2 B. W. C. C. 374.

[54] Rhodes v. Soothill Wood Colliery Co., 100 L. T. 15, 2 B. W. C. C. 377.

[55] Baker v. Jewell, 3 B. W. C. C. 503; Allan v. Spowart, 43 Scotch L. R. 599.

[56] The Tynron v. Morgan, 100 L. T. 461, 2 B. W. C. C. 406.

[57] Emerson v. Donkin, 4 B. W. C. C. 74.

nominal award of compensation containing a declaration of liability.[58]

On an application to terminate the payment of a nominal award, the question is not whether the employers are paying the workman or should pay him at the time of the application the same wages as before the accident, but whether the man is left in such a condition that in the open market his earning capacity may in the future be less than it was before the accident as a result of the accident.[59]

A suspensory award should be made where, though the man can work, yet the bad effects resulting from the accident still remain.[60]

§ 567. Grant of new trial by arbitrator.—An arbitrator has no power to grant a rehearing after he has made an award. He sits as an arbitrator in the proceedings and not as a judge.[61]

§ 568. Employer bound by application for review.—The employer cannot have relief which he failed to demand in his application for review. Accordingly, a court is within jurisdiction to find that a workman has recovered from an accident at a time previous to that suggested in the application.[62]

So weekly payments may be varied as from the date of the application but not from an earlier date.[63]

And generally, on a simple application to review a weekly payment and to terminate payment on the ground that the incapacity of the workman has ceased and it is not competent for the court to go outside the

58 Cranfield v. Ansell, 4 B. W. C. C. 57.

59 Birmingham Cabinet Co. v. Dudley, 102 L. T. 619, 3 B. W. C. C. 169.

60 Griga v. The Harelda, 3 B. W. C. C. 116.

61 Mountain v. Parr, 80 L. T. 342. 1 W. C. C. 110.

62 Upper Forest, etc., Tin Plate Co. v. Thomas, 2 B. W. C. C. 414.

63 Donaldson v. Cowan, 46 Scotch L. R. 920, 2 B. W. C. C. 390.

application and make an order terminating liability from an antecedent date.[64]

§ 569. Revision of award on change of circumstances of injured workman.—It is specially provided by the British act that any weekly payment may be reviewed at the request either of the employer or the workman and on such review the compensation may be ended, diminished or increased, subject to the maximum provided by the act. But the amount of the compensation will not be considered unless circumstances have altered since the last award was made. If this were the case the review would amount to a rehearing of the arbitrator and this is not permitted.[65]

The original finding as to the physical condition of the workman is not res judicata.[66]

"The doctrine of res judicata does not apply to a decision as to the amount of weekly payment to the injured workman when it is made the subject of an application to review, although it may apply to some of the facts proper to be considered on the occasion of such a review. The issue on such a review is the same issue as if it were an original award made at the date of the review, and the amount to be awarded is a payment which, in case of partial incapacity, must not exceed the difference between the amount of the average weekly earnings of a workman before the accident and the average weekly amount which he is earning, or able to earn, in some suitable employment or business at the date of the review, but is to bear such relation to the amount of such difference as may under the circumstances of the case appear proper."[67]

[64] Charing Cross, etc., R. Co. v. Boots, 101 L. T. 53, 2 B. W. C. C. 385.

[65] Crossfield v. Tanian, 16 T. L. R. 476, 2 W. C. C. 141.

[66] Mead v. Lockhart, 2 B. W. C. C. 398; Cawdor, etc., Collieries v. Jones, 3 B. W. C. C. 59; Radcliffe v. Pacific Steam Nav. Co., 102 L. T. 206, 3 B. W. C. C 185.

[67] Radcliff v. Pacific Steam Nav. Co., 3 B. W. C. C. 185

In one of the cases a collier lost the sight of an eye by accident, and compensation was paid for two and a half years under an agreement. Another agreement reducing the amount of compensation was then entered into in March, 1908. In January, 1909, the employers applied to further reduce the compensation. The workman contended that the amount of his incapacity had been settled once and for all by the agreement of March, 1908. The judge held that the man was fit for his work as a miner, and reduced the compensation to 1d. a week. It was held there was evidence before the County Court Judge with regard to the man's condition on which he was entitled to come to such a decision. The workman's contention that his condition was res judicata, and that no change of circumstance had taken place was bad.[68]

On a review in medical evidence as to new tests and observation is admissible to show a change in the condition of the workman.[69]

There is a decision which denies the right to diminish the compensation on the ground that increased age has lessened the capacity of the workman to earn the wages he was receiving at the time of the injury.[70]

§ 570. Appeal.—Orders and decrees not appealed from are final.[71]

On appeal the court will not consider questions which were not raised in the court below.[72]

Neither will the court review a question which is purely one of fact.[73]

[68]Cawdor, etc., Collieries Co. v. Jones, 3 B. W. C. C. 59.

[69] Sharman v. Holiday, 90 L. T. 46.

[70] Smith v. Hughes, 8 W. C. C. 115.

[71] Nicholson v. Piper, 96 L. T. 75, 9 W. C. C. 123, 128, (1907) A. C. 215, 97 L. T. 119.

[72] Payne v. Clifton, 3 B. W. C. C. 439.

[73]Gane v. Nortonhill Colliery Co., 100 L. T. 979, 2 B. W. C. C. 42; Rayman v. Fields, 102 L. T. 154, 3 B. W. C. C. 123; Turner v. Bell, 4 B. W. C. C. 63; Moss v. Akers, 4 B. W. C. C. 294.

But the question on appeal is not one purely of fact where the facts have been found by the court below and the question is whether the right conclusion has been deduced from such facts. In other words, the question in this situation is whether or not the lower court has misdirected himself.[74]

An appeal will lie from an order as to costs which is made a part of the award.[75]

In a case where a judge does not deal with the matter as an arbitrator, but as a judge, an appeal will lie from him in the action in his capacity as judge.[76]

In one of the cases an agreement for the redemption of a weekly payment by a lump sum was sent to a registrar to record. It appearing inadequate, the registrar under the powers given him under the compensation law referred it to the judge. The judge holding that the sole question for him to decide was whether the agreement had in fact been made, declined to consider the question of adequacy.[77]

It was held by the Court of Appeal that the case must go back for decision on the question of adequacy.

§ 571. **Costs and fees.**—On the termination of compensation on application of the employer the court may at his discretion award costs to the employer.[78]

In British Columbia a judge of the Supreme Court on a special case under the compensation act has jurisdiction to deal with the costs of the special case.[79]

Under this latter act an injured workman brought an action against his employers at common law and under

74 Gane v. Nortonhill Colliery Co., 100 L. T. 979, 2 B. W. C. C. 42.

75 Beadle v. The Nichols, 101 L. T. 586, 3 B. W. C. C. 102.

76 Granich v. British Columbia Sugar Co., 15, R. C. 193, 4 B. W. C. C. 452.

77 The Segura v. Blampied, 4 B. W. C. C. 192.

78 Cornish v. Lynch, 3 B. W. C. C. 343.

79 Darnley v. Canadian Pacific R. Co., 15 B. C. 324, 4 B. W. C. C. 449.

the employers liability act asking in the alternative for the assessment of compensation under the compensation act. The employers filed an admission of liability under the latter act and made an offer of compensation at the rate of $10 per week. The action failed and the compensation was assessed at $9 per week. It was held that the judge had a discretion as to the costs and in this case the workman should have the costs of the assessment of compensation under the compensation act.[80]

Where an applicant appeals unsuccessfully against the amount of compensation awarded him, the costs of appeal will be set off against his costs in the court below.[81]

It is open for the officer of the county court to tax the costs of an arbitration immediately after the hearing and in such a case the amount of the taxed costs may be inserted in the award.[82]

[80] Wilson v. Kelly, 3 B. W. C. C. 599.
[81] Case v. Colonial Wharves, 53 W. R. 514.
[82] Gardner v. Cox, 3 B. W. C. C. 245.

CHAPTER XXXIII.

THE BRITISH WORKMEN'S COMPENSATION AND NATIONAL INSURANCE ACT, 1911.

Sec.
572. Scope and nature of the act.
573. Construction of the act.
574. Investment of sums paid on death claims.
575. Actions independent of act.
576. Notice of accident.
577. Text of British compensation act of 1906.
578. National Insurance Act 1911—David Lloyd George Insurance Act.

§ 572. Scope and nature of the act.—The British government, after eight years' experience with the Compensation act of 1897 as amended in 1900, adopted a new compensation act in December, 1906, which became effective July 1, 1907. This act covers almost every kind of employment and applies to accidents occurring on the sea as well as on the land. The provisions of Acts of 1897 and 1900 included about 7,500,000 workmen while the Act of 1906 covers about 13,000,000.

A "workman," is defined in the act as "any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labor, clerical work, or otherwise," unless his annual wages are in excess of 250 pounds ($1,216.63), but manual laborers are included whatever the amount of earnings may be. Persons engaged in certain "casual" employments are excluded. Persons, who perform labor upon articles in their own homes or other premises which are not under the control of the person for whom the work is done, are excluded. Members of the employer's family that dwell in his house are excluded, but domestic servants are included. A list of diseases incurred in the course of employment which has been en-

larged by orders of the secretary of state for the home department, dated May 22, 1907, and December 2, 1908, are classed and compensated as accidents.

Commutation of weekly payments in cases of permanent disability on the request of the employer is regulated by the new law which requires that the sum thus paid be sufficient to purchase through the Post Office Savings Bank a life annuity equal in amount to 75 per cent. of the annual value of the weekly payments. Commutation may be made at any time by the parties by agreement.

§ 573. Construction of the act.[1]—The terminology used in the Act of 1906 is substantially the same as that used in the Acts of 1897 and 1900, so that the decisions of the courts relating to the construction of these acts are applicable to the Act of 1906. For example, the expressions "accident" and "arising out of and in the course of the employment" are the same in both.

The Court of Appeals in construing the meaning of the word "accident" holds that the question as to whether or not any certain event was an accident or not within the meaning of the act is one of fact and not one of law; consequently the findigs of the arbitrators in the cases arising under the act were approved, and the court did not attempt to reconcile them where they differed. This accounts for conflicting rulings in this connection in the earlier decisions. In 1903 the House of Lords finally decided the question of "accident" and "disease" in Frenton v. Thorley & Co.[2]

In this case it was said by Lord Shand: "The word 'accident' in the statute is to be taken in its popular and ordinary sense. I think it denotes or includes any unexpected personal injury resulting to the workman in

[1] See ante Chaps. XXIV et seq.

[2] (L. R. A. C. (1903) 443, 72 L. J. K. B. 787, 89 L. T. 314, 19 T. L. R. 684). In this case a workman in attempting to turn a wheel of a machine, ruptured himself by too great exertion.

the course of his employment from any unlooked for mishap or occurrence." Said Lord Lindley in the same case: "Speaking generally, but with reference to legal liabilities, an accident means any unintended and unexpected occurrence which produces hurt or loss. But it is often used to denote any unintended and unexpected loss or hurt apart from its cause; and if the cause is not known the loss or hurt would certainly be called an accident. The word 'accident' is also used to denote both the cause and the effect, no attempt being made to discriminate between them. The great majority of what are called accidents are occasioned by carelessness; but for legal purposes it is often important to distinguish careless from other unintended and unexpected events." This construction covers cases of injury caused by the malicious acts of another. For example, a locomotive engineer, who was struck by a missile thrown at his engine by a malicious or mischievous person, is entitled to compensation under the act.

It was held under the Act of 1897 that the infection with anthrax was caused by the "accidental alighting of a bacillus" on the person of the deceased and within the act but on the contrary lead poisoning, gradually contracted, "beat hand" and "beat knee" caused by the repeated jar or pressure of the affected parts, were not caused by accident within the meaning of the act. However, these injuries are all within the provision of the act of 1906 without regard to the element of accident. The phrase, "arising out of and in the course of the employment," according to the construction of the courts, contains two ideas, "arising out of," conveying the idea that the accident was due to some risk which is connected with the employment and to which the employé was exposed by reason of his employment, and "in the course of" only means that the accident must happen during the existence of the contract of employment. However, the employé is not required to be at work at the time. Thus

for example an employé who is on his master's premises a reasonable time before and after working hours, or during lunch hour according to custom, is held to be present in the course of his employment; but in going to different parts of his employer's work for his own purposes he is held to be without the provisions of the law. An employé who is instructed to use his employer's conveyance to reach the place of work is held to be within the act, but where he is given permission to use trains as a matter of personal convenience, he loses his right to compensation in case he is injured during such use.

An injury to be covered by the act need not be exclusively a consequence of the employment, as in the case of a workman who was employed to work near a hatchway into which he fell while suffering from an epileptic fit. It was held that his employment and not the fit was the proximate cause of his injury. Where a ticket collector jumped upon the foot board of a railway car to speak to a friend and was killed as he alighted, it was held that the injury did not arise out of his employment; similarly a workman went to a place different from that to which he was ordered, or repaired a machine which it was not his duty to repair.

An employé injured by an accident caused by the wrongful act of a fellow-workman will not be compensated unless the accident thus caused can be shown to be one of the inherent risks of the employment.

§ 574. Investment of sums paid on death claims.— The new law provides (as the old did not) that sums paid on account of death claims should be paid into the county court to be invested or paid out on its order for the benefit of the person entitled to the same. A similar rule pertains to weekly payments or lump sum commutations thereof, and the original apportionment of sums payable to each of the several dependents may be revised according as circumstances require.

§ 575. Actions independent of act.—The only case in which the employer may be proceeded against independently of the act is when the injury is the personal negligence or wilful act of the employer or his personal representative; double recovery is prohibited. An employé is denied compensation under the act in case the injury is caused by his wilful misconduct, unless the injury results in death or in serious and permanent disability. The "employer" as used in the act is the person who is primarily charged with the payment of compensation, even though the workman is under a contractor. In case of bankruptcy of the employer, the law provides not only that any insurance that he may have been carrying is secured to the injured workman but also compensation in any amount not exceeding 100 pounds ($486.65) is made a preferred claim against the bankrupt.

§ 576. Notice of accident.—An injured workman in proceeding to recover the compensation provided by the act must give notice of the accident which caused his injury to his employer as soon as possible after its accident and before he has voluntarily left his employment. Claims must be submitted within six months after the happening of the accident causing the injury or death for which compensation is claimed.[2a]

§ 577. Text of British compensation act of 1906.—This act, found in Public General Acts, 6 Edw. VII, 1906, pp. 325-348, provides: 1.—(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the first schedule to this act.

[2a]For a further description of the nature and scope of the British Act see 24th Annual Report Bureau of Labor Chap. VI, pp. 1495 to 1508.

(2) Provided that—

(a) The employer shall not be liable under this act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed:

(b) When the injury was caused by personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this act or take proceedings independently of this act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this act, and shall not be liable to any proceedings independently of this act, except in case of such personal negligence or wilful act as aforesaid:

(c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this act as to the liability to pay compensation under this act (including any question as to whether the person injured is a workman to whom this act applies), or as to the amount or duration of compensation under this act, the question, if not settled by agreement, shall, subject to the provisions of the first schedule to this act, be settled by arbitration, in accordance with the second schedule to this act.

(4) If, within the time hereinafter in this act limited for taking proceedings, an action is brought to recover damages independently of this act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such

action, but that he would have been liable to pay compensation under the provisions of this act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this act. In any proceeding under this subsection, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deductions for costs, and such certificate shall have the force and effect of an award under this act.

(5) Nothing in this act shall affect any proceeding for a fine under the enactments relating to mines, factories, or workshops, or the application of any such fine.

2.—(1) Proceedings for the recovery under this act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death:

Provided always that—

(a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defense by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United Kingdom, or other reasonable cause; and

(b) the failure to make a claim within the period

above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the United Kingdom, or other reasonable cause.

(2) Notice in respect of an injury under this act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

3.—(1) If the registrar of friendly societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependents than the corresponding scales contained in this act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favor of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the

scheme shall be substituted for the provisions of this act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this act shall apply notwithstanding any contract to the contrary made after the commencement of this act.

(2) The registrar may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the registrar of friendly societies by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the registrar shall examine into the complaint, and, if satisfied that good cause exist for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the registrar of friendly societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard

to the scheme as may be made or required by the registrar of friendly societies.

(7) The chief registrar of friendly societies shall include in his annual report the particulars of the proceedings of the registrar under this act.

(8) The chief registrar of friendly societies may make regulations for the purpose of carrying this section into effect.

4.—(1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Provided that, where the contract relates to threshing, plowing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable under this act to pay compensation to any workman employed by him on such work.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount

of any such indemnity shall in default of agreement be settled by arbitration under this act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

5.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this act to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) There shall be included among the debts which under section one of the Preferential Payments in Bankruptcy Act, 1888, and section four of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount, not

exceeding in any individual case one hundred pounds, due in respect of any compensation the liability wherefor accrued before the date of the receiving order or the date of the commencement of the winding up, and those acts and the Preferential Payments in Bankruptcy Amendment Act, 1897, shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the first schedule to this act.

(4) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887, such an amount as aforesaid, if the compensation is payable to a miner or the dependents of a miner, shall have the like priority as is conferred on wages of miners by section nine of that act, and that section shall have effect accordingly.

(5) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

6. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this act for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) If the workman has recovered compensation under this act, the person by whom the compensation

was paid, and any person who has been called on to pay an indemnity under the section of this act relating to subcontracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this act.

7.—(1) This act shall apply to masters, seamen, and apprentices to the sea service and apprentices in the sea-fishing service, provided that such persons are workmen within the meaning of this act, and are members of the crew of any ship registered in the United Kingdom, or of any other British ship or vessel of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in the United Kingdom, subject to the following modifications:

(a) The notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident.

(b) In the case of the death of the master, seaman, or apprentice, the claim for compensation shall be made within six months after news of the death has been received by the claimant:

(c) Where an injured master, seaman, or apprentice is discharged or left behind in a British possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any judge or magistrate in the British possession, and by any British consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to the Board of Trade, and such deposition or certified copies thereof shall in any proceedings for en-

forcing the claim be admissible in evidence as provided by section six hundred and ninety-one and six hundred and ninety-five of the Merchant Shipping Act, 1894, and those sections shall apply accordingly.

(d) In the case of the death of a master, seaman, or apprentice, leaving no dependents, no compensation shall be payable, if the owner of the ship is under the Merchant Shipping Act, 1894, liable to pay the expenses of burial.

(e) The weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expenses of maintenance of the injured master, seaman, or apprentice:

(f) Any sum payable by way of compensation by the owner of a ship under this act shall be paid in full notwithstanding anything in section five hundred and three of the Merchant Shipping Act, 1894 (which relates to the limitation of a shipowner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under the section of this act relating to remedies both against employer and stranger as if the indemnity were damages for loss of life or personal injury:

(g) Subsection (2) and (3) of section one hundred and seventy-four of the Merchant Shipping Act, 1894 (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by dependents of masters, seamen, and apprentices lost with their ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen

months of the date at which the ship is deemed to have been lost with all hands:

(2) This act shall not apply to such members of the crew of a fishing vessel as are remunerated by shares in the profits of the gross earnings of the working of such vessel.

(3) This section shall extend to pilots to whom Part X. of the Merchant Shipping Act, 1894, applies, as if a pilot when employed on any such ship as aforesaid were a seaman and a member of the crew.

8.—(1) Where—

(i) the certifying surgeon appointed under the Factory and Workshop Act, 1901, for the district in which a workman is employed certifies that the workman is suffering from a disease mentioned in the third schedule to this act and is thereby disabled from earning full wages at the work at which he was employed; or

(ii) A workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any such disease; or

(iii) the death of a workman is caused by any such disease; and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement or suspension, whether under one or more employers, he or his dependents shall be entitled to compensation under this act as if the disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of that employment subject to the following modifications:

(a) The disablement or suspension shall be treated as the happening of the accident:

(b) If it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously

suffered from the disease, compensation shall not be payable.

(c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due:

Provided that—

(i) the workman or his dependents if so required shall furnish that employer with such information as to the names and addresses of all other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation; and

(ii) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable; and

(iii) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this act for settling the amount of the compensation.

(d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable.

(e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

(f) If an employer or a workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall in accordance with regulations made by the secretary of state be referred to a medical referee, whose decision shall be final.

(2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the third schedule to this act, and the disease contracted is the disease in the first column of that schedule set opposite the description of the process, the disease, except where the certifying surgeon certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

(3) The secretary of state may make rules regulating the duties and fees of certifying and other surgeons (including dentists) under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given:

Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine.

(b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(5) In such cases, and subject to such conditions as the secretary of state may direct, a medical practitioner appointed by the secretary of state for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

(6) The secretary of state may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

(7) Where, after inquiry held on the application of any employers or workmen engaged in any industry to which this section applies, it appears that a mutual trade insurance company or society for insuring against the risks under this section has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the secretary of state may, by provisional order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the order. Where such a company or society has been established, but is confined to employers in any particular locality or of any particular class, the secretary of state may for the purposes of this provision treat the industry, as carried on by employers in that locality or of that class, as a separate industry.

(8) A provisional order made under this section shall be of no force whatever unless and until it is confirmed by Parliament, and if, while the bill confirming

any such order is pending in either House of Parliament, a petition is presented against the order, the bill may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills, and any act confirming any provisional order under this section may be repealed, altered, or amended by a provisional order made and confirmed in like manner.

(9) Any expenses incurred by the secretary of state in respect of any such order, provisional order, or confirming bill shall be defrayed out of moneys provided by Parliament.

(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this act.

9.—(1) This act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to workmen employed by or under the Crown to whom this act would apply if the employer were a private person:

Provided that in the case of a person employed in the private service of the Crown, the head of that department of the royal household in which he was employed at the time of the accident shall be deemed to be his employer.

(2) The treasury may, by warrant laid before Parliament, modify for the purposes of this act their warrant made under section one of the Superannuation Act, 1887, and notwithstanding anything in that act, or any such warrant, may frame schemes with a view to their being certified by the registrar of friendly societies under this act.

10.—(1) The secretary of state may appoint such legally qualified medical practitioners to be medical referees for the purposes of this act as he may, with the

sanction of the treasury, determine, and the remuneration of, and other expenses incurred by, medical referees under this act shall, subject to regulations made by the treasury, be paid out of moneys provided by Parliament.

Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.

(2) The remuneration of an arbitrator appointed by a judge of county courts under the second schedule to this act shall be paid out of moneys provided by Parliament in accordance with regulations made by the treasury.

11.—(1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this act, and at any time that ship is found in any port or river of England or Ireland, or within three miles of the coast thereof, a judge of any court of record in England or Ireland may, upon its being shown to him by any person applying in accordance with the rules of the court that the owners are probably liable as such to pay such compensation, and that none of the owners reside in the United Kingdom, issue an order directed to any officer of customs or other officer named by the judge requiring him to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by the judge, to abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) In any legal proceeding to recover such compensation, the person giving security shall be made defendant, and the production of the order of the judge, made

in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceeding.

(3) Section six hundred and ninety-two of the Merchant Shipping Act, 1894, shall apply to the detention of a ship under this act as it applies to the detention of a ship under that act, and, if the owner of a ship is a corporation, it shall for the purposes of this section be deemed to reside in the United Kingdom if it has an office in the United Kingdom at which service of writs can be effected.

12.—(1) Every employer in any industry to which the secretary of state may direct that this section shall apply shall, on or before such day in every year as the secretary of state may direct, send to the secretary of state a correct return specifying the number of injuries in respect of which compensation has been paid by him under this act during the previous year, and the amount of such compensation, together with such other particulars as to the compensation as the secretary of state may direct, and in default of complying with this section shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds [$24.33].

(2) Any regulations made by the secretary of state containing such directions as aforesaid shall be laid before both Houses of Parliament as soon as may be after they are made.

13. In this act, unless the context otherwise requires,—

"Employer" includes any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this act, be deemed to continue to be the employer of the workman whilst he is working for that other person;

"Workman" does not include any person employed otherwise than by way of manual labor whose remuneration exceeds two hundred and fifty pounds [$1,216.63] a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or a member of a police force, or an outworker, or a member of the employer's family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labor, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing;

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependents or other person to whom or for whose benefit compensation is payable.

"Dependents" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively;

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister;

"Ship," "vessel," "seaman," and "port" have the same meanings as in the Merchant Shipping Act, 1894;

"Manager," in relation to a ship, means the ship's

husband or other person to whom the management of the ship is intrusted by or on behalf of the owner;

"Police force" means a police force to which the Police Act, 1890, or the Police (Scotland) Act, 1890, applies, the City of London Police Force, the Royal Irish Constabulary, and the Dublin Metropolitan Police Force;

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority;

"County court," "judge of the county court," "registrar of the county court," "plaintiff," and "rules of court," as respects Scotland, mean respectively sheriff court, sheriff, sheriff clerk, pursuer, and act of sederunt.

14. In Scotland, where a workman raises an action against his employer independently of this act in respect of any injury caused by accident arising out of and in the course of the employment, the action, if raised in the sheriff court and concluding for damages under the Employers' Liability Act, 1880, or alternatively at common law or under the Employers' Liability Act, 1880, shall, notwithstanding anything contained in that act, not be removed under that act or otherwise to the court of session, nor shall it be appealed to that court otherwise than by appeal on a question of law; and for the purposes of such appeal the provisions of the second schedule to this act in regard to an appeal from the decision of the sheriff on any question of law determined by him as arbitrator under this act shall apply.

15.—(1) Any contract (other than a contract substituting the provisions of a scheme certified under the Workmen's Compensation Act, 1897, for the provisions of that act) existing at the commencement of this act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this act.

(2) Every scheme under the Workmen's Compensation Act, 1897, in force at the commencement of this act shall, if recertified by the registrar of friendly societies, have effect as if it were a scheme under this act.

(3) The registrar shall recertify any such scheme if it is proved to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this act as to schemes.

(4) If any such scheme has not been so recertified before the expiration of six months from the commencement of this act, the certificate thereof shall be revoked.

16.—(1) This act shall come into operation on the first day of July, nineteen hundred and seven, but, except so far as it relates to references to medical referees, and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this act.

(2) The Workmen's Compensation Acts, 1897, and 1900, are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this act, except to the extent to which this act applies to those cases.

17. This act may be cited as the Workmen's Compensation Act, 1906.

FIRST SCHEDULE—SCALE AND CONDITIONS OF COMPENSATION.

(1) The amount of compensation under this act shall be—

(a) where death results from the injury—

(i) if the workman leaves any dependents wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one hundred and fifty pounds [$729.98], whichever of those sums is the larger, but not exceeding in any case three hundred pounds [$1,459.95], provided that the amount of any weekly payments made under this act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer;

(ii) if the workman does not leave any such dependents, but leaves any dependents in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this act, to be reasonable and proportionate to the injury to the said dependents; and

(iii) if he leaves no dependents, the reasonable expenses of his medical attendance and burial, not exceeding ten pounds [$48.67];

(b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period dur-

ing which he has been in the employment of the same employer, such weekly payment not to exceed one pound [$4.87];

Provided that—

(a) if the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week; and

(b) as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than twenty shillings [$4.87], one hundred per cent. shall be substituted for fifty per cent. of his average weekly earnings, but the weekly payment shall in no case exceed ten shillings [$2.43].

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:—

(a) average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district;

(b) where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average

weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;

(c) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;

(d) where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

(3) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceedings under this act in relation to compensation, shall be suspended until such examination has taken place.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the county court, and any sum so paid into court shall,

subject to rules of court and the provisions of this schedule, be invested, applied, or otherwise dealt with by the court in such manner as the court in its discretion thinks fit for the benefit of the persons entitled thereto under this act, and the receipt of the registrar of the court shall be a sufficient discharge in respect of the amount paid in:

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependents, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6) Rules of court may provide for the transfer of money paid into court under this act from one court to another, whether or not the court from which it is to be transferred is in the same part of the United Kingdom as the court to which it is to be transferred.

(7) Where a weekly payment is payable under this act to a person under any legal disability, a county court may, on application being made in accordance with rules of court, order that the weekly payments be paid during the disability into court, and the provisions of this schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuancy of any such order.

(8) Any question as to who is a dependent shall, in default of agreement, be settled by arbitration under this act, or, if not so settled before payment into court under this schedule, shall be settled by the county court, and the amount payable to each dependent shall be settled by arbitration under this act, or, if not so settled before payment into court under this schedule, by the county court. Where there are both total and partial dependents nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependents.

(9) Where, on application being made in accordance with rules of court, it appears to a county court that, on

account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependents, or for any other sufficient cause, an order of the court or an award as to the apportionment amongst the several dependents of any sum paid as compensation, or as to the manner in which any sum payable to any such dependent is to be invested, applied, or otherwise dealt with, ought to be varied, the court may make such order for the variation of the former order or the award, as in the circumstances of the case the court may think just.

(10) Any sum which under this schedule is ordered to be invested may be invested in whole or in part in the Post Office Savings Bank by the registrar of the county court in his name as registrar.

(11) Any sum to be so invested may be invested in the purchase of an annuity from the national debt commissioners through the Post Office Savings Bank, or be accepted by the postmaster-general as a deposit in the name of the registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings banks, and the declaration to be made by a depositor, shall not apply to such sums.

(12) No part of any money invested in the name of the registrar of any county court in the Post Office Savings Bank under this act shall be paid out, except upon authority addressed to the postmaster-general by the treasury or, subject to regulations of the treasury, by the judge or registrar of the county court.

(13) Any person deriving any benefit from any moneys invested in a post office savings bank under the provisions of this act may, nevertheless, open an account in a post office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

(14) Any workman receiving weekly payments under this act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(15) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (14) of this schedule otherwise than in accordance with regulations made by the secretary of state, or at more frequent intervals than may be prescribed by those regulations.

Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the registrar of a county court, on application being made to the court by both parties, may, on payment by the applicants of such fee not exceeding one pound [$4.87] as may be prescribed, refer the matter to a medical referee.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the secretary of state, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

Where no agreement can be come to between the employer and the workman as to whether or to what

extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the secretary of state, apply as if the question were a question as to the condition of the workman.

If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

Rules of court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this paragraph and the forms to be used for those purposes and, subject to the consent of the treasury, as to the fee to be paid under this paragraph.

(16) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this act:

Provided that where the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent. of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding one pound [$4.87].

(17) Where any weekly payment has been continued for not less than six months, the liability therefor may,

on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as, where the incapacity is permanent, would, if invested in the purchase of an immediate life annuity from the national debt commissioners through the Post Office Savings Bank, purchase an annuity for the workman equal to seventy-five per cent. of the annual value of the weekly payment, and as in any other case may be settled by arbitration under this act, and such lump sum may be ordered by the committee or arbitrator or judge of the county court to be invested or otherwise applied for the benefit of the person entitled thereto: Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(18) If a workman receiving a weekly payment ceases to reside in the United Kingdom, he shall thereupon cease to be entitled to receive any weekly payment, unless the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(19) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

(20) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

(21) Where a scheme certified under this act provides for payment of compensation by a friendly society,

the provisions of the proviso to the first subsection of section eight, section sixteen, and section forty-one of the Friendly Societies Act, 1896, shall not apply to such society in respect of such scheme.

(22) In the application of this act to Ireland the provisions of the County Officers and Courts (Ireland) Act, 1877, with respect to money deposited in the Post Office Savings Bank under that act shall apply to money invested in the Post Office Savings Bank under this act.

SECOND SCHEDULE—ARBITRATION, ETC.

(1) For the purpose of settling any matter which under this act is to be settled by arbitration, if any committee, representative of any employer and his workmen, exists with power to settle matters under this act in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as hereinafter provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within six months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the judge of the county court, according to the procedure prescribed by rules of court.

(3) In England the matter, instead of being settled by the judge of the county court, may, if the lord chancellor so authorizes, be settled according to the like procedure, by a single arbitrator appointed by that judge, and the arbitrator so appointed shall, for the purposes of this act, have all the powers of that judge.

(4) The Arbitration Act, 1889, shall not apply to any arbitration under this act; but a committee or an arbitrator may, if they or he think fit, submit any question of

law for the decision of the judge of the county court, and the decision of the judge on any question of law, either on such submission, or in any case where he himself settles the matter under this act, or where he gives any decision or makes any order under this act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the court of appeal; and the judge of the county court, or the arbitrator appointed by him, shall, for the purpose of proceedings under this act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the county court.

(5) A judge of county courts may, if he thinks fit, summon a medical referee to sit with him as an assessor.

(6) Rules of court may make provision for the appearance in any arbitration under this act of any party by some other person.

(7) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator, or judge of the county court, subject as respects such judge and an arbitrator appointed by him to rules of court. The costs, whether before a committee or an arbitrator or in the county court, shall not exceed the limit prescribed by rules of court, and shall be taxed in manner prescribed by those rules and such taxation may be reviewed by the judge of the county court.

(8) In the case of the death, or refusal or inability to act, of an arbitrator, the judge of the county court may, on the application of any party, appoint a new arbitrator.

(9) Where the amount of compensation under this act has been ascertained, or any weekly payment varied, or any other matter decided under this act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the committee or arbitrator, or by any

party interested, to the registrar of the county court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a county court judgment.

Provided that—

(a) no such memorandum shall be recorded before seven days after the despatch by the registrar of notice to the parties interested; and

(b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this act and the employer, in accordance with rules of court, proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the judge of the county court, under the circumstances, may think just; and

(c) the judge of the county court may at any time rectify the register; and

(d) where it appears to the registrar of the county court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependents, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the judge who shall, in accordance with rules of court, make such order (including an order as to any sum already paid under the agreement), as under the circumstances he may think just; and

(e) The judge may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependents, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

(10) An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependents, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

(11) Where any matter under this act is to be done in a county court, or by, to, or before the judge or registrar of a county court, then, unless the contrary intention appear, the same shall, subject to rules of court, be done in, or by, to, or before the judge or registrar of, the county court of the district in which all the parties concerned reside, or if they reside in different districts the district prescribed by rules of court, without prejudice to any transfer in manner provided by rules of court.

(12) The duty of a judge of county courts under this act, or in England of an arbitrator appointed by him, shall, subject to rules of court, be part of the duties of

the county court, and the officers of the court shall act accordingly, and rules of court may be made both for any purpose for which this act authorizes rules of court to be made, and also generally for carrying into effect this act so far as it affects the county court, or an arbitrator appointed by the judge of the county court, and proceedings in the county court or before any such arbitrator, and such rules may, in England, be made by the five judges of county courts appointed for the making of rules under section one hundred and sixty-four of the County Courts Act, 1888, and when allowed by the lord chancellor, as provided by that section, shall have full effect without any further consent.

(13) No court fee, except such as may be prescribed under paragraph (15) of the first schedule of this act, shall be payable by any party in respect of any proceedings by or against a workman under this act in the court prior to the award.

(14) Any sum awarded as compensation shall, unless paid into court under this act, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the committee, the arbitrator, or the judge of the county court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(15) Any committee, arbitrator, or judge may, subject to regulations made by the secretary of state and the treasury, submit to a medical referee for report any mat-

ter which seems material to any question arising in the arbitration.

(16) The secretary of state may, by order, either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this act exclusively on county courts or judges of county courts, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into court, and the order may exclude from the operation of provisos (d) and (e) of paragraph (9) of this schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential, or supplemental provisions as may appear to the secretary of state to be necessary or proper for the purposes of the order.

(17) In the application of this schedule to Scotland—

(a) "County court judgment" as used in paragraph (9) of this schedule means a recorded decree arbitral:

(b) Any application to the sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by section fifty-two of the Sheriff Courts (Scotland) Act, 1876, save only that parties may be represented by any person authorized in writing to appear for them and subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by act of sederunt to require the sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either division of the court of session, who may hear and determine the same and remit to the sheriff with instruction as to the judgment to

be pronounced, and an appeal shall lie from either of such divisions to the House of Lords.

(c) Paragraphs (3), (4), and (8) shall not apply.

(18) In the application of this schedule to Ireland the expression "judge of the county court" shall include the recorder of any city or town, and an appeal shall lie from the court of appeal to the House of Lords.

THIRD SCHEDULE.

Description of disease.	Description of process.
Anthrax	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelae	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelae	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.

Where regulations or special rules made under any act of Parliament for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this schedule to that industry, the expression "process" shall, unless the secretary of state otherwise directs, include only the processes so specified.

Order of the Secretary of State for the Home Department, dated May 22, 1907, extending the provisions of the Workmen's Compensation Act, 1906, to certain industrial diseases.

SCHEDULE.

Description of disease or injury.	Description of process.
1. Poisoning by nitro- and amido-derivatives of benzene (dinitro-benzol, anilin, and others), or its sequelae.	Any process involving the use of a nitro- or amido-derivative of benzene or its preparations or compounds.
2. Poisoning by carbon bisulphide or its sequelae	Any process involving the use of carbon bisulphide or its preparations or compounds.
3. Poisoning by nitrous fumes or its sequelae	Any process in which nitrous fumes are evolved.
4. Poisoning by nickel carbonyl or its sequelae	Any process in which nickel carbonyl gas is evolved.
5. Arsenic poisoning or its sequelae	Handling of arsenic or its preparations or compounds.
6. Lead poisoning or its sequelae	Handling of lead or its preparations or compounds.
7. Poisoning by Gonioma Kamassi (African boxwood) or its sequelae	Any process in the manufacture of articles from Gonioma Kamassi (African boxwood).
8. Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bi-chromate of ammonium, potassium, or sodium, or their preparations.
9. Eczemarous ulceration of the skin produced by dust or caustic or corrosive liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust.	
10. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to pitch, tar, or tarry compounds.	Handling or use of pitch, tar, or tarry compounds.
11. Scrotal epithelioma (chimney-sweeps' cancer).	Chimney-sweeping.
12. Nystagmus	Mining.

13. Glanders	Care of any equine animal suffering from glanders, handling the carcas of such animal.
14. Compressed air illness or its sequelae	Any process carried on in compressed air.
15. Subcutaneous cellulitis of the hand (beat hand)	Mining.
16. Subcutaneous cellulitis over the patella (miners' beat knee).	Mining.
17. Acute bursitis over the elbow (miners' beat elbow).	Mining.
18. Inflammation of the synovial lining of the wrist joint and tendon sheaths.	Mining.

Order of the Secretary of State for the Home Department, dated December 2, 1908, extending the provisions of the Workmen's Compensation Act, 1906, to certain industrial diseases, and amending the previous order of May 22, 1907.

* * * * * * *

(2) A glass worker suffering from cataract shall be entitled to compensation under the provisions of the said section, as applied by this order, for a period not longer than six months in all, nor for more than four months unless he has undergone an operation for cataract.

(3) In the application of the provisions of section 8 to telegraphists' cramp, so far as regards a workman employed by the postmaster-general, the post office medical officer under whose charge the workman is placed shall, if authorized to act for the purposes of the said section by the postmaster-general, be substituted for the certifying surgeon.

(4) The order of the 22nd May, 1907, so far as it applies to eczematous ulceration of the skin produced by dust or caustic or corrosive liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust, is revoked, except as regards cases arising before the date of this order.

SCHEDULE.

Description of disease or injury.	Description of process.
Cataract in glass workers	Processes in the manufacture of glass involving exposure to the glare of molten glass.
Telegraphists' cramp	Use of telegraphic instruments.
Eczematous ulceration of the skin produced by dust or liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust.	

§ 578. National insurance act 1911—David Lloyd George Insurance Act.[3]—This act is divided into three parts: Part I contains the provisions for National Health Insurance; Part II contains the provisions for Unemployed Insurance, and Part III contains General provisions for outdoor relief and important features of administration.

The bill was championed by the great English Chancellor of the Exchequer, David Lloyd George. Space forbids the giving of anything more than a very brief description of the nature and scope of this comprehensive act, which contains 122 pages.

The law becomes operative July 15, 1912. The benefits of the act extend to all persons between sixteen and sixty-five years of age whose income does not exceed a fixed amount. Provision is made for the voluntary insurance of persons having an income not exceeding $776. The act exempts from compulsory contribution all persons having an annual pension or income of $125 or more and not dependent on their own exertions or dependent upon some other person. The act covers employment in the United Kingdom under contracts of service express or implied, whether the employé is paid by his immediate employer or another; employments on vessels registered in the United Kingdom; employments as "outworkers"; and employments in plying for hire with any vehicle or vessel under any contract of bailment.

[3] 1 and 2 Geo. 5. ch. 55.

The cost of insurance is divided between the employer, the worker, and the State, but the employer is in every case responsible in the first instance for the payment of his own and the employé's share. This means a payment by the employer of 7d. a week for each man, and 6d. a week for each woman in his employment. He may recover from wages 4d. from each man and 3d. from each woman, if the rate of remuneration exceeds 2s. 6d. a working day in the case of a man or 2s. in the case of a woman. Lower wages, except for employés under 21, mean an increase in the employer's share of payment. In the case of the domestic servant, the shop assistant living in, or any other case where board and lodging are provided, the ordinary rate is paid both by employer and employed. The State contributes 2d. towards every 9d. expended on benefits, or on the administration of benefits.

WEEKLY RATES OF CONTRIBUTION.

Remuneration.	Worker.	Employer.	State.	Total.
—Men—				
More than 2s. 6d. a working day	4d.	3d.	2d.	9d.
Not exceeding 2s. 6d. a day	3d.	4d.	2d.	9d.
Not exceeding 2s. a day	1d.	5d.	3d.	9d.
Not exceeding 1s. 6d. a day	—	6d.	3d.	9d.
—Women—				
More than 2s. 6d. a working day	3d.	3d.	2d.	8d.
Not exceeding 2s. 6d. a day	3d.	3d.	2d.	8d.
Not exceeding 2s. a day	1d.	4d.	3d.	8d.
Not exceeding 1s. 6d. a day	—	5d.	3d.	8d.

Where no money wages are given, but the worker is insured, the employer pays the whole 7d. or 6d. for the worker, and can recover nothing.

Where the employer undertakes to pay wages for six weeks during the year, or engages the servant for six months or a year certain with a similar condition, reduced rates are payable. For these see points dealing with the case of the clerk and the domestic servant.

The benefits include medical benefits; sanatorium benefits; sickness benefits for a period not exceeding twenty-six weeks, disablement benefits where disablement continues after sickness benefit has ceased; and maternity benefits. The insurance relating to unemployment, covers workmen employed in building, construction work, shipbuilding, mechanical engineering, iron-foundering, construction of vehicles and sawmilling. For each week after the first week of unemployment, the workman receives seven shillings or such other amount as the insurance commission shall prescribe and the payment may continue during unemployment for a period not to exceed twelve months.

CHAPTER XXXIV.

THE IMPERIAL INDUSTRIAL INSURANCE LAWS AGAINST SICKNESS, ACCIDENTS, INVALIDITY AND OLD AGE PRIOR TO LAW OF 1911.

Sec.
579. Dr. Zacher's guide to the German law.
580. Sick insurance.
581. Extent of the insurance.
582. Accident insurance.
583. The object of the insurance.
584. The waiting period.
585. Awarding of the compensations.
586. Payments.
587. Prevention of accidents.
588. Personal liability of the employer in relation to the obligatory Industrial Insurance Law.
589. Agricultural accident insurance law.
590. The building trades accident insurance law.
591. The marine accident insurance law.
592. Principles affecting new insurance of small enterprises.
593. Invalidity and old-age insurance.
594. Conclusion.

§ 579. Dr. Zacher's guide to the German law.—The most accurate and concise presentation of the purpose and nature of the German law as it existed prior to the law of 1911, is that of Dr. George Zacher, which appeared in 1904. No material changes were made in the law from that date to the time of the present code. A translation of this work is set forth in the succeding sections.

§ 580. Sick insurance.—The first of the social political enactments was the Sick Insurance Law of June 15, 1883, which regulated the reform of sick relief in its relation to the insurance against accidents. These two branches of insurance supplement each other, and—quite unlike mere poor-law relief, which aims only at upholding the existence of the individual—are designed to

provide relief in case of sickness or accident, and to compensate for lost wages during the time of disability to work. On the principles of previous legislation, which trusted chiefly to the good will of interested parties, barely one-half of those who needed it, were in a position to profit by this aid and relief.

§ 581. Extent of the insurance.—This state of things necessarily led to the introduction of compulsory insurance, which in the first place was by law made obligatory to all workmen employed in mines, quarries, factories or other industrial concerns and to managing officials (with yearly salaries up to 2,000 marks, whose circumstances therefore are nearly alike) in so far as such obligation might be found generally necessary and practicable. In the second place it was permitted to establish a statutory obligation of insurance on the part of the parish (township) for those groups of trades and callings—such as so-called home industries (small masters and mechanics working at home), and agricultural laborers—where the above-mentioned necessity is entirely dependent on local circumstances.

The foundation and first condition of compulsory insurance is dependency on an employer, so that persons carrying on a business of their own are generally exempted. But the law concedes to all exempted workmen and officials, as well as to servants, the right to participate voluntarily in the benefits of the insurance.

The supplemental measure of April 10, 1892 (taking effect on January 1, 1903), designed to bring the sick insurance law into harmony with the other insurance laws (against accident, invalidity and old age), which in the meantime had received the sanction of the government, has widened still farther the range of insured persons. Thus, persons engaged in commercial firms, in the offices of attorneys, notaries, bailiff, sick-clubs, trade associations and insurance institutions are made liable

to the legal, and agricultural officials to the statutory obligation of insurance. All those exempted, however, whose yearly earnings do not exceed 2,000 marks, may obtain the statutory privilege of insurance.

As regards the mode of carrying out the insurance, the fundamental aim and object of the law is mutual insurance based on self-administration. The insured are grouped in corporate associations whose members belong to the same trade or calling, where the risk of sickness is about alike. Such organization greatly facilitates self-administration, and while it exercises a healthy and moral influence on the members in their intercourse with one another, it makes "simulation" (malingering) more difficult and the indispensable control easier and more effectual.

Quite contrary to the insurance against accidents, the sick insurance is restricted to local organization, since here cases of less importance are continually occurring, in which relief, to be efficacious, must be prompt.

In consequence of this, the law, without interfering with existing institutions, has authorized beside the voluntary sick clubs, which every one is at liberty to join, the formation of the following obligatory sick associations:

1. The local sick clubs, established by parishes (townships) for branches of trade within their limits;

2. The industrial (factory) sick clubs erected by proprietors of large factories.

3. The builders' sick clubs, which contractors of building are bound to establish;

4. The Guilds' sick clubs, founded according to the National German Trades Regulation law;

5. The miners' sick clubs formed in accordance with the mining laws of the several states of Germany; at last,

The subsidiary (township) sick insurance, which

strictly speaking is not a sick association, but a local institution comprehending all those who are liable to insurance, but who belong neither to a voluntary nor to an obligatory sick association.

Between these organized associations, the right of changing one's membership in case of removal is recognized, i. e., persons newly admitted have neither to wait a certain time until they can obtain the benefits warranted by the law, nor to pay an entrance fee. As the Guilds and the miners' sick clubs are accessible only to certain callings; as the builders' sick clubs are available only for workmen in temporary employment, and as the independent sick relief clubs rest on the voluntary principle, it follows that the law has its main bearing upon the local and the industrial (factory) sick clubs, which embrace the majority of all the associations, and persons insured.

The great purpose of the insurance is to secure to the insured an ever certain and sufficient relief, in case of sickness, during at least 26 weeks, (since January 1, 1904, formerly 13 weeks, novel of May 25, 1903).

The minimum relief to which all the insured have a legal claim, includes:

1. Free medical attendance and medicines from the beginning of the illness, likewise spectacles, trusses, bandages, etc.

2. In case of incapacity for work, from the third day of the illness, for every working day a sick pay, amounting to one-half the daily wages on which the contributions have been based.

Or, in special cases: Free admittance to a hospital, together with half the sick pay for the families.

Besides this assistance the obligatory insurance grants:

3. Burial money amounting to twenty times the average daily wages, and

4. Sick relief to women during six weeks after confinement.

The money value of this assistance is considered equal to the average daily wages upon which the calculation is based. The law, however, allows the double insurance of sick pay up to the full amount of the average daily earnings of the insured. It also authorized the sick clubs to extend the assistance given even to relief for an entire year (instead of 26 weeks), and for women to 12 (instead of 6) weeks after confinement. The daily sick pay may be raised from 50 to 75 per cent, and the burial money from 20 to 40 times the average daily wage. Sick allowances may also be paid for the first three days of the illness, as well as for Sundays and holidays; and finally the relief may be extended even to the other members of the family and to convalescents.

The contributions of the insured are limited by the law (independent clubs not included) in the Parish Sick Insurance to ½ per cent of the usual local daily wages of common laborers, and for the rest they must not exceed ¾ per cent of the average daily wages of that class of workmen for whom the club has been formed.

The law binds the employers, when depositing the contributions of their workmen, to pay themselves a sum equal to one-half the contributions of the employés, so that two-thirds of the whole are furnished by the workmen, so that one-third of the whole are furnished by the employers.

The costs of management, which latter, conformably to the principles of self-administration, is mainly placed in the hands of the workmen, aided by the co-operation of the contributing employers, under the supervision of the authorities, are paid by each club for itself. In the parish insurance they fall on the parish (township), and in the industrial and building sick clubs they are borne by the employers.

The further extensions of the German National Sick

Insurance to agricultural laborers and to servants is not yet realized, but even now there are insured over 10 millions of persons and about 200 millions of marks annually are expended in Germany for sick relief alone.

§ 582. Accident insurance.—As with sickness, so in the case of industrial accidents the previous legislation proved inadequate to secure an indemnity to the workmen. The common law granted no compensation in the frequent cases where persons were killed or wounded either by chance or through their own imprudence. If a man suffered by the malice or carelessness of another person, only the immediate author of the disaster—usually a fellow workman or an overseer—could be called to account, but not the employer. Thus the sufferer or his survivors could rarely obtain a fair compensation, for even when a law-court decided in their favor, they generally had to go away with empty hands, in consequence of the poverty of the responsible party. Scarcely one-tenth of all accidents were properly compensated.

These evils led to the Liability Law of June 7, 1871, which imposed on the employer a personal responsibility for accidents occurring in his business, and particularly for the negligence of his managers.

Under this law the employer is bound to compensate fully the loss arising from the death or bodily injury of a person in the following cases:

1. In railway accident, when he (the employer) cannot show that the injured suffered by his own fault, or by circumstances beyond the employer's control.

2. In other cases (such as may happen in mines, quarries, excavations, or in factories) when the injured, or his part, can show that either the employer or his officials were in fault.

Although this law was a step in the right direction, it had not the desired effect. The heavy burden of proof

laid on the party seeking redress almost frustrated the beneficent intentions of the measure. The inability of the responsible parties to pay an indemnity often compelled the applicant to fall back upon public charity, and the increasing number of lawsuits seriously embittered the relations between employers and employés. Finally, the limitation of responsibility to cases, in which the blame rested with employers or managers, left uncovered not only cases originating from personal fault or neglect, but likewise that large class of injuries caused by inevitable risks or similar cases.

This experience corroborated the conviction expressed in the Emperor's Message of the 17th of November, 1881, that it is the imperative duty of the Christian State, by means of positive enactment to care for the helpless element of the population and to secure to them, when partially or totally disabled in the pursuit of their calling, such a provision as will protect them from being thrown upon public charity. For this reason the principle of redress by private litigation must be abandoned in favor of an insurance based, like the sick relief insurance, on public law, binding employers to care for the employés or their families in case of accident; for, as such casualties are necessarily incident to the undertaking, the compensation for injuries must be regarded as a part of the cost of production. Considering the serious difficulties to be surmounted, with no precedents to be guided by, legislation could advance only step by step.

Accordingly the following accident insurance laws were passed:

1. The so-called "fundamental law" of July 6, 1884, for the Industry (the trades formerly subject to the Liability Law, the handicrafts using machines and some under-ground building).

2. The "extension law" for the great Transport Trades (on land and water), within the country, includ-

ing the administration of the post, the telegraph, the railway, the army and the navy.

3. The "agricultural law" of May 5, 1886, for Agriculture and Forestry.

4. The "building law" of July 11, 1887, for Navigation.

These laws—except the "extension law"—represented each for itself a special legislation adapted to its peculiar province of insurance (industry, agriculture, building, navigation).

For the same reasons as formerly in the sickness and invalidity insurance a revision of the accident insurance followed in 1900. Thus, certain rules for organization (partly common to both the accident and the invalidity insurance) were combined on a special (principal) law and the extension law was merged into the fundamental law, but the fusion of all the single laws into one General Act was abandoned as impractical. Accident insurance as revised (since October 1, 1900) therefore comprises, besides the above mentioned principal law of June 30, 1900, the following separate laws for: 1, Industry; 2, Agriculture and Forestry; 3, Building; 4, Navigation. Special laws have been issued for the accident insurance of prisoners (law of June 31, 1900) as well as officials and soldiers (law of June 18, 1901).

The accident insurance law for industry concerned especially the great industries, including the administration of the post, the telegraph, the railway, the army and the navy. The compulsory insurance comprises principally all workmen (irrespective of wages) and inferior managing officials (with yearly salaries up to 3,000 formerly 2,000 marks, under the new law) in domestic and other services ordered by their masters or managers apart from their regular work.

The insurance is carried out under the guarantee of the Empire, on the mutual system, by the employers

united in trade associations, which may embrace all the several branches of industry in certain districts or in the whole Empire. The trade associations enjoy the privilege of legal persons and have perfect self-administration, which they may decentralize by forming "Sections" and by appointing a "confidential agent." Each trade association comprises by law all establishments of the respective branches of trade within its district, accessory works following regularly the principal enterprise; by statute, however, industrial accident insurance may now be extended to accessory agricultural workers, if the industrial workmen of the principal enterprise are mainly employed in them. The "employer" is held to be the person on whose account the enterprise is carried on. In the case of state undertakings special "Executive Boards" replace the trade associations.

§ 583. The object of the insurance.—The object of the insurance is to secure compensation for bodily injury or for death arising from an accident to the insured person whilst working for his employer, unless the victim himself has caused the accident intentionally. The compensation (now considerably increased) includes the following normal payments: 1. In case of bodily injuries, from the beginning of the fourteenth week after the occurrence of the accident, i. e., continuation of the sickness insurance; free medical attendance, including the necessary medicines and remedies and a pension during the period of disablement (full pension, two-thirds of the yearly earnings for complete disablement, partial pension for partial disablement) or else free hospital treatment until the cure is finished and a pension for the family as in the case of death. 2. In case of fatal injuries, a burial money equal to the fifteenth part of the yearly earnings, but not less than fifty marks, and a pension to the survivor (widows or disabled widowers and children under fifteen years, also needy parents and

grandparents or orphan grandchildren)—from 20 up to 60 per cent of the yearly earnings.

Beyond these normal payments, however, the accident pensions, in case of absolute helplessness, must be raised up to the full yearly earnings, and in case of undeserved non-employment, the partial pension may be raised (by the directing board) up to the full pension; the trade associations are also authorized to grant still further voluntary allowances in favor of the insured. The yearly earnings are reckoned generally at 300 times the amount of the individual average daily wages (any amount exceeding 1,500—formerly 1,200—marks being calculated only at one-half), but at least 300 times the usual daily wages of common laborers. The full pension is limited two-thirds of the yearly earnings in analogy to the pensions of most officials, because the time of non-employment inevitable for every workman and the relief of the disabled workmen from providing for his working outfit must be taken into account, and also because all accidents are compensated, even those due to personal negligence.

§ 584. The waiting period.—During the so-called waiting time, i. e., the first thirteen weeks after the accident, the sick clubs, and failing them, the employers have to provide for the victim, in which case the sick pay must be raised, at the employer's expense, from the beginning of the fifth week, to at least two-thirds of the wages corresponding to the sick pay (not to the real earnings) of the insured. In the interest of an equal and suitable treatment of sufferers, from accident, the trade associations are, however, legally authorized either to submit at their own cost the care of the injured to the sick club beyond the thirteenth week, until a complete cure is affected, or they may themselves undertake the charge of the patient at any time during the first thirteen weeks, on the understanding that their

due or outlay of sick-pay shall be refunded by the sick-club. The gap formerly occurring between sick benefits and accident benefits has also been filled up, i. e., the trade associations now has to pay the accident pension, so during the (formerly now insured) interval in all cases, when the sick-pay has ceased during the waiting time (the injured having recovered), but the accident pension (for still partial disablement) has not yet become payable.

§ 585. Awarding of the compensations.—The compensation is to be fixed officially, after investigation by the police, by the organs of the trade association without delay; if the compensation can not be fixed at once, preliminary provision must be made for the entitled person. The procedure has been still further improved, especially the co-operation of the entitled person and of the physicians has been extended and the alteration of current pensions on account of "change of circumstance" falls under prescription in two years.

Against the "decision" of the trade association the entitled person may appeal within a month to an arbitration court composed of two representatives chosen by either party, employers and insured, with a state official as chairman. The arbitration courts are established according to the districts of the invalidity insurance institutions and have been working since January 1, 1901, for both the accident and the invalidity insurance. In the more important cases both parties are still allowed to appeal against the judgment of the Arbitration Court to the "Reich-Versicherungsamt" (Imperial Insurance Office), which is the supreme authority for the whole organization with regard to administration as well as jurisdiction. It is composed of "permanent" members—a president appointed for life by the Emperor on the proposal of the Bundesrat, and several superior state officials similarly appointed—and of "tem-

porary" members, namely: Six delegates of the Bundesrat and six representatives of the employers and the employed in equal numbers (two for each group: Industry, Agriculture, Navigation). The directors (at present one for each "Section of administration;" I. Accident Insurance, II. Invalidity Insurance), and the presidents of the "Senates of Appeal" (at present twenty for one, five for eleven) are appointed by the Emperor among the permanent members. The awarding Senates are composed as follows: In cases of appeal in accident matters there are seven; in cases of revision in invalidity suits, five members (among whom representatives for both the employers and the employed, and judiciary assistants); but one more permanent and one more temporary member (delegate of the Bundesrat) are required to assist in invalidity suits, if any point of principle is to be decided ("increased" Senate, or together seven members). Whenever, in any fundamental question of law, any Senate intends to deviate from a former award, the case must be referred to the "enlarged" Senate, in which each group (Insurance Office, Bundesrat, judges, employers, employed) is represented by two members, besides the president sitting as chairman. The privilege of the federal states to establish state insurance offices for their districts and at their own expense has been left untouched.

§ 586. **Payments.**—Cost of treatment and burial money must be paid within a week after having been fixed and pensions must be paid monthly in advance, or quarterly, if under sixty marks yearly; the law, however, permits longer terms by agreement and also the payment of lump sums in lieu of small partial pensions (under 15 per cent of the full pension).

The payments of compensation are advanced upon orders of the Directing Board of the Association through the post-offices, which advances, at the close of

the financial year, have to be refunded by the board. To cover the advances named, the management expenses and the additions to the reserve fund, the members of the Trade Association are assessed in such a way that only the actual expenditure of the past year, and not the capitalized value of the annuities, will be raised. In order to facilitate the gradual conversion of this assessment system with increasing contributions into a system of capitalization of the annuities by means of fixed contributions, a further increase of the reserve funds already accumulated with a corresponding employment of the interest accruing (from the year 1922 forward) has been provided for. Every employer contributes to the burdens of the year in proportion to the risks to which he exposes his Trade Association. These risks are determined for each separate establishment under a classified danger tariff drawn up by the Trade Association and in proportion to the amount of wages and salaries paid.

§ 587. Prevention of accidents.—As it is evident that both the trade associations and their individual members have a strong interest in diminishing the chances of accidents, the law confers on the Trade Associations the important privilege of prescribing regulation for the prevention of accidents; by such regulations not only the employers can be compelled, under penalty of higher assessment, to adopt the necessary measures for safety, but also the workmen may be forced by fines to follow these rules. The new law has considerably enlarged those provisions, especially it has rendered more effective the co-operation of the workmen's representatives, of the Association Sections and of the Reichs-Versicherungsamt for the adoption of precautionary regulations and for their observance (under the control of technical inspectors).

Such accident preventive regulations have already

been adopted by sixty-five out of sixty-six Industrial Trade Associations, but only by eighteen out of forty-eight Agricultural Trade Associations. The accident statistics supply a valuable basis for further improvement of preventive measures. According to the Accident Statistics of Industry for the two years 1887-1897 and of Agriculture for the two years 1891-1901 the compensated accidents (the cases not cleared up excluded) were caused:

	Industry.		Agriculture.	
By Fault.	1887.	1897.	1891.	1901.
Of the employers	20.47	17.30	18.61	—%
Of the employés	26.56	29.74	24.99	—%
Of both parties	8.01	10.14	23.39	—%
So that the greater part	55.04	57.18	66.99	—%
is due to negligence of the parties, and only the smaller part	44.96	42.82	33.01	—%

to inevitable risks of employment and other cause (compare "Amtliche Nachrichten des Reichs-Versicherungsamts" years 1890, p. 199, and supplements for 1899-1900, 1893, p. 231, and supplement for 1904).

As regards the participation of the insured workmen in the organization of the Trade Association, they are neither members of the associations nor have they to bear any of the corporate burdens. They have, however, to take on themselves a portion of the aggregate liabilities caused by accidents, in so far as, together with the employers they contribute to the sick relief club, to which, for practical reasons, the care of patients is left during the first thirteen weeks of illness ("waiting time"; about six and two-thirds per cent of the whole burdens of sick insurance, i. e., four and one-half per cent to the charge of the workmen). But the statistical calculations made show that the contributions of the workmen to the accident insurance stay in an inverse ratio to the contributions of the employers to the sickness insurance, for while the workmen, on their part, bear only eight per cent of the entire burden for the acci-

dents, the employers have to contribute four times as much (thirty-three and one-third per cent) to the sickness insurance. From these reciprocal relations it follows as a necessity, that the employers should participate in the management of the Sick Associations, and that to the employes in their turn, must be conceded a share in the administration of the accident insurance. Accordingly the law permits representatives of the workmen, elected by them, to take part in the discussion of preventive regulations, and in the police investigations of accident cases, as well as in the proceedings of the Arbitration Courts and of the Imperial Insurance Office; on all these occasions the workmen enjoy the same rights as the representatives of the employers, and the law guarantees them the free exercise of this honorary co-operation.

§ 588. Personal liability of the employer in relation to the obligatory industrial insurance law.—With reference to the relation in which the obligatory insurance law stands to the personal liability, from which the employers of industrial labor and their officials are now in general relieved, it should be stated, that those employers or officials remain liable who are convicted under the penal law of having caused the accident either intentionally or by negligence, i. e. they are obliged to make up to the person intentionally injured (or to the survivors) the excess amount between the indemnity awarded (if any) and the compensation payable under the Accident Insurance Law; but to their sick-clubs and Trade Associations which are in the first place bound to make the payment, they will be held responsible for the full amount (to the latter, now, even without conviction). Third parties, however, remain as heretofore liable for the whole extent of the damage caused, and have to refund the compensation, already paid, to the Trade Association, and not to the injured (or sur-

vivors) already indemnified. All other relief bodies, apart from the Trade Associations remain bound to furnish the same aid and relief as heretofore, but the Trade Associations will refund to them such portion of the assistance as they are bound to afford under the accident insurance law.

§ 589. Agricultural accident insurance law.—The Agricultural Accident Insurance Law embraces the whole Agriculture and Forestry. Unlike the Industrial Accident Insurance Law, it allowed the extension of compulsory insurance (by State Law) to all employers and (by statute) to domestic service connected with agriculture or forestry, since the number of small agriculture holdings is immense (according to the statistics of June 14, 1895: about 3.2 million lots under two hectares and 2.0 million small properties of 2-20 hectares area), the owners of which are hardly of any better economic and social standing than laborers and are mostly compelled to seek accessory occupation (wage labor), so that a distinction between insured (wage) labor and not insured (private) labor would scarcely be possible; moreover the agricultural accident insurance now embraces (to a greater extent than hitherto) in industrial work accessory to agriculture and forestry, according to practical needs.

Other difficulties from the industrial accident insurance are accounted for by the less complicated nature of agriculture and forestry and are intended to simplify both the organization and the administration. Thus, in consequence of the prevalent uniformity in agricultural pursuits, the Trade Associations are organized by territorial district, which must coincide with those of the communal or state administration (provinces, federal states). The current administration, so far as it belongs to the Directing Board, may be entrusted, by agreement or legal provisions, to political administration au-

thorities (such as country or provincial committees) or to magistrates. Not the actual earnings of the injured are taken as a basis for determining the annuities due, but the average rate of wage for agricultural laborers, as fixed by the higher administrative authorities after consulting the local authorities and experts among employers and employés (distinct rates being fixed for male and female, for young and adult laborers); only managing officials and skilled workmen are indemnified according to their actual wages, as in the industrial accident insurance. The contributions may be levied, not according to the classification of a danger-tariff and the number of hands employed, but on the basis of taxes (by additions to the direct state or local taxes, especially the land tax), if so resolved or confirmed by the association assembly with two-thirds majority (before October 1, 1901); in that case the higher risks of industrial accessory work are to be balanced by corresponding addition to the contributions.

During the waiting time the parish is required as hitherto, to make preliminary provision for the injured (free medical attendance and remedies), in all cases where a provision equal to that insured by the Imperial sickness insurance has not been introduced either by state law or by statutory enactments; the claims, however, which the common law gives the injured against their employers, remain in force.

§ 590. The building trades accident insurance law. —The Building Trades Accident Insurance Law embraces all the branches of employment in building not yet covered by the above mentioned laws, in particular underground building (in the soil and in water) and in the "Regie-" or private building (without intervention of contractors). For the underground building a single Trade Association ("Tiefbau-Berufsgenossenschaft") embracing the whole Empire has been formed, and its

insurance has been regulated under provisions embodied in the original law; but as these enterprises are generally of limited duration, it has been found expedient to adopt the capitalizing system in place of that of assessment. The insurance for the Regie-Building, however, it is effected by special "insurance institutions" established as appendages to the several Building Trades Associations, and goes to the account of the parish unions, if the employment does not exceed six working days (the parish being liable), otherwise, to the account of the employer (by premium). For the waiting time the workmen in this branch of building have the same rights as the agricultural laborers (see above).

§ 591. The marine accident insurance law.—The Marine Accident Insurance Law embraces the navigation as well as the sea and coast fishery. While the insurance for the large enterprises is effected, as previously, by the Marine Trade Association ("See Berufsgenossenschaft"), a special "Insurance Institution" has been provided for the recently established insurance of small enterprises (with small sea-going and fishing craft). Unlike the industrial accident insurance law, this insurance is not tied to the amount of income, but always restricted up to 3,000 marks yearly earnings or more, (if so prescribed by the statute), and the yearly earnings of seamen are ascertained not on the basis of the individual wages, but of average rates of wages, which are fixed by the reichstag uniformly for the whole coast in several classes (at 11, formerly 9—times the monthly account including regular accessory earnings.) For the waiting time, in the first place, the provisions of the commercial code (for skippers, § 553) and of the seamen's code (for sailors, § 59), remain in force, these rules imposing the care for the sick and injured men upon the shipowner; in all other respects the same rules obtain as in the industrial accident insurance.

§ 592. Principles affecting new insurance of small enterprises.—For the new insurance of small enterprises as a departure from general rules, the following principles have been laid down: 1. the employers are subject, by law, to compulsory insurance, if they form part of the crew and do not employ as a rule more than two wage-workers; 2. yearly earnings are calculated at 300 times the usual local daily wages of common laborers; 3. relief during the waiting time is regulated as in the agricultural accident insurance; 4. the funds required to defray the compensations are raised on the system of capitalization (by premiums) and are contributed by the larger parish unions of the coast districts in proportion to the number of persons employed in the insured enterprises (one-half being unrecoverable, the other half recoverable from the employers of parishes concerned).

The 66 industrial trade associations are distributed over the several branches of industry as follows: Building trades, 14; textile and iron (steel) industry, 8 each; food and beverages, 7; wood industry, land and water transportation, 4 each; earthen ware (such as potteries, brick work, glass works), 3; paper, metal (fine and ordinary), and mining, 3 each; finally, fine mechanics (such as opticians, etc.), chemical, gas and waterworks, printing, leather, clothing industry, manufacture of musical instruments and smithcraft, 1 each.

The accident insurance will still be completed by its extension to handicrafts and small trades, to home industry and commerce, and about one million of concerns and two millions of the employed; so that all the workmen on wages, and the other classes of similar standing, (with not more than 3,000 marks a year), such as industrial and agricultural managers, commercial clerks and small employers, will reap the benefits of the accident insurance laws, in virtue of these laws, the employers have already paid over 900 millions of

marks for compensations alone and 200 millions of marks to the funds.

§ 593. Invalidity and old-age insurance.—The invalidity and old-age insurance is intended to secure to person working for wage or salary a legal provision in cases not covered by the sick and accident insurance laws. The Invalidity and Old Age Insurance law of June 22, 1889, which first dealt with this branch of insurance coming in force on January 1, 1891, has been replaced since January 1, 1900, by the invalidity insurance law of July 13, 1899. This new law, like the revised sick insurance law has introduced several improvements based on the experiences made in the meantime.

It subjects to compulsory insurance (for the completed 16th year of age): 1. all persons working for wages in any branch of trade, apprentices and servants, included; 2. managing officials (foremen, engineers), commercial assistants (clerks and apprentices) and other employés (such as ship-captains), as well as teachers and tutors—all these, provided that their regular year's earnings do not exceed 2,000 marks. The obligation to insure may also be extended (by order of the Bundesrat): 3. to small masters (with only one assistant workman), and to so-called home industrials irrespective of the number of hands employed). Hitherto the obligation to insure has been extended by order of the Bundesrat to the home industrials of the manufacture and of some branches of the textile industry (weaving, knitting).

The following are allowed (up to their fortieth year) to join voluntarily the insurance: 1. to all employés with yearly earnings of 2,000 to 3,000 marks; 2. small masters (with only two regular workmen), and home industrials (persons working in their own homes), so far as they are not liable to compulsory insurance; 3. persons who are exempt from compulsory insurance because

they work only occasionally or for maintenance (board and clothing).

The right to continue or renew the insurance voluntarily is given when the grounds for the former insurance no longer exists or the insurance itself lapses; the latter case happens, when during two years (for the despatch of the receipt than 20 (formerly during four years 47) weeks and for persons allowed to insure, contributions for less than 40 weeks have been paid.

Exempt from compulsory insurance are: 1. the officials of the Empire, the federal states and the provincial administrations as well as teachers and tutors at public schools for institutions (whilst training for their future calling or if expecting a pension equal to the lowest invalid pension); 2. soldiers, who in service are employed as workmen; 3. officials of the insurance institutions and the special insurance organs when entitled to a pension; 4. persons giving instructions for remuneration during their term of study; 5. infirm persons who are already entitled to an invalid pension, or whose capacity for work is permanently reduced to less than one-third by old age, sickness or other infirmities, and 6. persons who receive only free maintenance (board and clothing), in lieu of wages or are exempt (by order of the Bundesrat) from compulsory insurance as only occasional workers.

The object of the insurance is, to give the insured a legal claim to a pension for invalidity or old age. Besides this, it confers a right to the recovery of contribution (in so far as paid by the insured, during at least a space of 200, formerly 235 weeks), 1. in favor of women who marry before obtaining an annuity; 2. in favor of the survivors of such insured person as die before the annuity becomes attainable (widows, widowers unfit for work, orphans under 15 years of age and children of deserted wives); 3. in favor of such persons as are invalided by accident, but do not get the invalid pension,

their accident pension being higher. Finally, sick relief (with relief also to the family), may be granted to insured persons, in so far as, in consequence of the illness, a claim for an invalid pension, in, by reason of incapacity for employment, is to be apprehended.

The pension for invalidity will be granted, irrespective of age, to every insured person who is permanently disabled, i. e., no longer able to earn at least one-third of his average wages, calculated on certain fixed principles; and also to persons not permanently disabled, but who for half a year have been unfit for work, during the remaining period of their disability. Thus, the invalid pension offers a compensation for the loss of capacity to work. Besides the proof of disability (not purposely caused) a waiting time of regularly 200 (formerly 235), contributory weeks is requisite, to obtain the pension.

The pension for old age will be granted, without proof of disability, to all who have completed their seventieth year. It forms an addition to the earnings of old, but not incapacitated working people, and makes some amend for the diminished vigor or age. The waiting time here extends to 1,200 (formerly 1,410) contributory weeks.

Attested period of illness, and military service, as well as the term of a former invalid pension will be reckoned (full weeks only), in the waiting time for both annuities. The periods of illness are to be certified by the sick club to which the insured belongs, or ascertained through the local authorities.

The law lays down, however, in favor of those insured among others the following transitory provisions regarding the waiting time. As to the waiting time for the invalids pension—in case of those insured who become invalids within five years after the compulsory insurance for their particular calling came into force, a former employment will be allowed to count so far as it falls within last five years before the invalidity occurred

and has lasted at least 40 (formerly 47) weeks after the insurance obligation came into force. As to the waiting time for the old age pension for those insured, who had already completed the 49th year of age when the compulsory insurance for their particular calling came into force, 40 weeks, for each succeeding year will be reckoned, if a professional employment during the last three years before the insurance obligation came into force has been pursued or has lasted at least 200 weeks within the first five years after the insurance obligation came into force. As regards the waiting time for both pensions, besides attested periods of illness, military service and the time of previous drawing of an invalid pension, also temporary interruptions in regular employments or season-trades and paid work done at home by infirm people will be counted in the time before the insurance obligation came into force up to four months during a calendar year.

The money to pay the invalidity and old age pensions is furnished jointly by the Empire, the employers and the employed. The Empire contributes to each annuity the fixed amount of 50 marks per annum, and pays the contributions of the workmen, while serving in the army or navy. It defrays the expenses also of the Imperial Insurance Office, and effects gratuitously, as in the case of the accident insurance, and the payment of pensions through the post-offices. All other expenses are borne in equal shares by the insured and their employers, and are raised by current contributions. With a view to fixing the contributions for each contributory period, the insured have been divided into the following five wage classes, according to the amount of their yearly earning: Class I up to 350; II, up to 550; III, up to 859; IV, up to 1,150; V, above 1,150 marks. As the yearly income, not the actual earnings of the insured are taken (except fixed cash payments for weeks, months, quarters or years), but the average wages

earned in his calling or trade, as fixed by the sickness and accident insurance, or else three hundred times the usual local daily wages of common laborers in the locality. However if employer and employed agree on procuring a more ample provision, the contributions for a higher class may be paid in; otherwise, the insured person is entitled to insure himself in the higher class.

The payment of the contributions, as a rule, is to be made by the employer, who, after purchasing stamps (resembling postage-stamps) from the respective local insurance office, affixes them (to the amount of the contribution due) to the receipt-card of the insured. These stamps may be had at all post-offices, and at numerous private shops; the Imperial Insurance Office determines the distinguishing marks of the stamps, the times for which they are valid and the different periods for which they are to be issued (since January 1, 1900; for 1 week, 2 weeks and 13 weeks). The contributions are to be paid regularly for each week in which the insured finds himself in an employment or service subject to the insurance ("Contributory weeks," "weekly contributions"). The receipt-card has room for at least 52 stamps covering 52 contributory weeks. It is prohibited, under severe penalties and the immediate confiscation of the card, to mark on the same any irrelevant entry or notice regarding the workman whose name it bears. The insured is furthermore entitled, at any time to demand a new receipt-card. The contents of the receipt-cards of the same persons may be transferred by the Insurance Institution to collective cards (personal accounts).

The collection of the contributions may be committed to the sick clubs, the local authorities, or to special receiving office; the latter may also be authorized to collect the contributions of the Sickness Insurance.

In paying the wages to the employed, the employers are entitled to deduct one-half the contribution (for the two last periods of wages payments). On the other

hand, persons who voluntarily enter into, continue or renew, the insurance, will have to pay, regularly out of their own means, the full contribution.

The amount of the contribution must be fixed equally on all for all the Insurance Institutions (by the Bundesrat for 10 years each) and estimated in such a manner that they shall be sufficient to cover the capital value of the annuities chargeable to the Insurance Institutions, the reimbursements of contributions and the other expenses of the Insurance Institutions. The contributions are to be graduated for the different wage classes only according to the average amount of the pensions to be granted in the same by the Insurance Institutions; within each wage class the contribution must be equal for all those insured. The respective regulations of the Bundesrat must be approved by the Reichstag.

For the term until December 31, 1910, the following weekly contributions have been fixed by law, on the basis of insurance statistics: in Class I 14, in II 20, in III 24, in IV 30, in V 36 pfennigs. Any surplus of, or deficiency is to be balanced by the new contributions.

As to the amount of the annuities, the Old Age Pension is made up of the above-mentioned state subsidy of 50 marks and another amount to be provided by the Insurance Institutions as follows: in Class I 60, in II 90, in III 120, in IV 150, in V 180 marks. Hence the Old Age annuity amounts (rounded off): in Class I to 110.40, in II to 140.40, in III to 170.40, in IV to 200.40, in V to 230.40, marks per annum.

The invalid pension consists of the state subsidy of 50 marks, an initial (fundamental) sum (in Class I 60, in II 70, in III 80, in IV 90, in V 100 marks), and increasing sums corresponding to the number of the contributory weeks (in Class I 3, in II 6, in III 8, in IV 10, in V 12 pfennigs each). The highest of the invalid annuity therefore depends on the number of the weekly contributions paid in, and on the respective wage class-

es. Therefore it amounts, after the waiting time of 200 contributory weeks, at least: in Class I to 116.40, in II to 126.00, in III to 134.50, in IV to 142.40, in V to 150.00 marks, and after the lapse of 50 years or 2,500 contributory weeks (state of permanence, Beharrungszustand, i. e. when the increasing charges have reached the highest point and the pensions annually going off and coming on the fund will balance each other) in Class I to 185.40, in II to 270.00, in III to 330.00, in IV to 390.00, in V to 450.00 marks.

It is evident from the relative proportions of the contributions to the pensions that such favorable conditions can be offered to working people by no private insurance system, for the insured to obtain the state subsidy and the employers contributions without giving any equivalent. After the lapse of the waiting time (200 contributory weeks), for instance, the amount of the yearly invalid pension in Class II will be more than 6 times as high as the total of all contributions paid by the insured.

All the pensions are paid monthly in advance (rounded off to 5 pfennigs), and can be neither pawned nor sequestrated. Should the insuree be already in possession of an Accident Annuity or a State Pension, his claim to the Old Age or the Invalid Annuity will remain in abeyance, so long and so far as the annuity in question, when added to the other receipts, exceeds seven and a half times the fundamental sum of his Invalid Pension (formerly the sum of 415 marks). The pension will likewise remain in abeyance so long as the insured is in prison or in a foreign country.

The carrying out of the Invalidity and Old Age Insurance is intrusted, under state guarantee, to special Insurance Institutions, whose districts coincide with the province or state divisions. Every insurance institution possesses the character of a legal person, and is managed on the basis of the statute drawn up by the man-

aging "committee." This committee is composed of at least five representatives of both employers and insured. So far as certain privileges are not reserved to the committee by law or by statute, the administration is placed in the hands of the "Directing Board" which is invested with the character of a public authority; it comprises official members (local or state officials) and representatives of both the employers and insured.

Every insurance institution administers its receipts and its fund (both common and separate) independently. Out of these the common costs to be met by all the insurance institutions (common charge) and the special costs remaining to the single insurance institutions (separate charge) are to be covered alike. The common charge is made up of three-fourths of all old age pensions, of the fundamental sums of all invalid pensions, of the increase of pensions in consequence of weeks of sickness and the rounding off of the pensions. All other liabilities constitute the separate charge of the insurance institutions. Four-tenths of the contributions with interest accrued are reckoned from January 1, 1900, in each insurance institution to the common fund, but the remainder to the separate fund (any modification of this division being reserved for the Bundesrat with the consent of the Reichstag). The funds of the insurance institutions must be invested like trust funds (1807-1808 of the civil code). The insurance institutions may, however, invest their funds (with the consent of the authorities) also in other ways up to one-half of the amount in outlays serving to benefit the welfare of the insured people, especially in the construction and improvement of the workingmen's dwellings.

In addition to the receiving offices special pension offices may be established as local organs to administer the business otherwise falling to the local authorities (receiving, preparing, examining the claims to a pension); in the more important cases, however, one repre-

sentative each of both the employers and the insured must be invited to attend the proceedings, even the claimant or the recipient of the pension (at his request or on other grounds). Such representatives are to be elected, generally, by the directing boards of the local sick funds and they on their part, elect the members of the managing "committee" of the insurance institution and the latter again elect the lay members of the "Directing Board" of the insurance institution as well as the members of the "Court of Arbitration." The officers of the unsalaried members of the directing board, the committee and the Arbitration Courts, honorary, and their holders receive no other remuneration except repayment of actual expenses. The representative of the workmen, however, obtains compensation for loss of wages.

When a claim to a pension (for invalidity or old age) has been made to the local administrative authorities or pension office for the place of residence or employment of the insured, and has been transmitted by them to the competent insurance institution, it devolves on the directing board of the latter to give an (approving or rejecting) notice in writing. Against such decisions the insured may appeal within a month to the Arbitration Court (similarly composed as those for the accident insurance); and against its judgment both parties may appeal within a month to the Reichs-Versicherungsamt.

As in the case of the Accident Insurance here, too, the supervision is committed to the Reichs-Versicherungsamt (Imperial Insurance Office); some of the federal states, however, have instituted special State Insurance Offices.

As regards the results of the Invalidity and Old Age Insurance, in the first twelve years (1891-1902) besides 1,093,681 reimbursements and 156,000 cases of sick relief—no less than 1,302,900 annuities (402,856 Old Age Pensions and 900,044 Invalid Pensions) have been grant-

ed, 720 millions of marks (including 252 millions of marks state subsidies) have been paid out, and 1,359 millions of marks have been received from the sale of receipt-card stamps.

Compared with the Accident Insurance, which compensated total disability for employment with two-thirds of the earnings and every other reduction of capacity for work with a corresponding fraction, the compensations of the Invalid and Old Age Insurance are indeed somewhat limited, but with good reason. For a sudden industrial accident is for the sufferer an unexpected misfortune, while the gradual decline of bodily vigor in consequence of disease, sickliness, organic defects, natural decay and similar causes, is inevitable in the ordinary course of life, and must betimes be provided for, by every prudent workman. In accordance with the moral obligation of every individual to make seasonable preparation, in the first place by his own efforts to meet the day of need, the Invalidity and Old Age Insurance does not extend the provision fixed by law beyond what a modest subsistence demands. And thus, besides the employer, who profits by the labor of the insured, the workman himself is called upon to contribute in equal proportion to the burden of the insurance, of which the Empire, as the third interested party, takes a share on itself. To raise the requisite funds, however, it has been found desirable to substitute for the assessment system of the Accident Insurance the procedure of covering the capital value of the annuities (formerly for certain periods, now by average premiums), since the solidarity between the present and the future contributors in the particular industrial groups of the Accident Insurance here no longer exists.

The expenses for the entire workmen's insurance are reckoned according to the experiences hitherto made.

On the year's average per head of the insured		In the year 1897, marks.		In the state of permanence, marks.	
Sick insurance		----	15.45	-------	15.45
Accident insurance	Industrial	8.68	-----	20.00	-----
	----	----	4.25	-----	10.00
	Agricultural	1.04	-----	4.30	-----
Invalid insurance		----	5.55	-------	17.65
Including State subsidiary		1.78	-----	3.55	-----
Total		----	25.25	-------	43.10

The contributions of the workmen's insurance are fixed for the Invalid Insurance (since January 1, 1900), according to the procedure by average premiums; thus the contributions of this branch of insurance probably remain equal. It is the same in the case of the Sick Insurance (irrespective of the benefits now enlarged, whilst in the Accident Insurance the contributions correspond to the actual yearly expenses (assessment system) and rise still further, according to the increasing number of pensioners, up to the state of permanence. The annual contributions of the Accident Insurance are reckoned according to the procedure by average premiums as follows:

Industry 12.36 marks, agriculture 2.54 marks, in the average 6.00 marks per head of insured persons.

Therefore, the charges of the entire workmen's insurance on the year's average would be the following:

	Employers, marks.	Employed, marks.	Empire, marks.	Total marks.
Sick insurance	5.15	10.30	----	15.45
Accident insurance	6.08	-----	----	6.08
Invalid insurance	4.65	4.65	2.88	12.18
Total	15.88	14.95	2.88	33.71

Thus the workmen on their part do not pay even the half of the whole charges (i. e. only 14.95 out of 33.71)

and generally they get more back as compensations than they pay in as contributions. These conditions of insurance are so favorable both to employers and employed as to exceed anything that could even be offered by private companies, which are compelled to earn a profit and which as a rule expend for management at least three times as much as compulsory insurance. The average results for the 50th year have been calculated according to the previous valuations during the preparations of the workmen's insurance laws, and as regards the Invalid Insurance according to the former system of covering the capital value of the annuities for certain periods.

§ 594. **Conclusion.**—The three branches of the German National Workmen's Insurance—Sickness, Accident, and Invalidity Insurance—supplementing one another mutually, form a complete organization, and have result in the formation of a new workmen's code, which in the inevitable fluctuations of modern industrial life will afford to all those in need of assistance a welcome aid, and in its further development can not fail to exercise a great and salutary influence on the economical and social condition of the working people, indeed, on the entire nation. Thus, in the years 1885-1903, on the ground of this legislation, the following compensations have already been granted to the workmen:

Sickness Insurance (since 1885).	Million marks.
Sick pay	837.5
Doctor	381.8
Medicines	307.2
Hospital	220.6
Burial	65.8
Childbed	26.7
Other expenses	28.3
1885—1901	1867.9
1902—1903	265.0
Millions of marks	2233.

Accident Insurance (since 1885).	Million marks.
Accident pensions	583.2
Survivors pensions	149.8
Med. treatment	27.3
Hospital	34.7
Burial	5.7
Widow's (lump sums)	6.2
Foreigner (lump sums)	5.6
1885 — 1902	812.5
1903	118.3
	931

Invalidity Insurance (since 1891).	Million marks.
Invd. pensions	357.5
Old age pensions	293.5
Cure	33.2
Reimbursements.	
In case of marriage	27.1
In case of death	9.0
In case of accident	0.1
1891 — 1902	720.4
1903	134.0
	854

so that until the end of 1903 about 60 millions of persons (sick, injured, invalided or their families) have received 4 milliards of marks as compensation. The workmen, however, have paid in only the small half of the contributions and have got already 1½ milliards—1,500 millions of marks more as compensations than they have paid in as contributions. At present 1¼ millions of marks are expended daily in Germany for this branch of provisions for workmen alone, whilst the accumulated funds already amount to 1½ milliard marks, about 400 millions of which have been spent in constructing workmen's dwellings and special establishments for sick, injured, invalided and convalescent workpeople, public baths and the like institutions for the benefit of the working class.

As, however the circumstances which tend to disturb the good relations between employers and employed are everywhere much the same, the hope is natural and well justified, that the consideration and forethought which the German laborers owe to the beneficent initiative of their magnanimous Emperor and to the ready sacrifice of their employers will find an echo in other civilized countries, for the welfare of the human race and the consolidation of social peace and concord!

CHAPTER XXXV.

THE GERMAN WORKMEN'S INSURANCE CODE OF JULY 19, 1911.

Sec.
595. Introduction.
596. General features.
597. Sickness insurance.
598. Accident insurance.
599. Invalidity and survivors insurance.
600. Analysis of the code and the introductory law.

§ 595. **Introduction.***—The German Workmen's Insurance code of 1911 is translated for the United States Bureau of Labor by Henry J. Harris, Ph. D. He introduces his translation by an admirable prefatory note, which summarizes the history, purposes and scope of the Imperial legislation on the subject. He says:

"The law of July 19, 1911, is a codification of all the legislation relating to the several branches of workmen's insurance in the German Empire. Previous to the date of this act the sickness insurance, the accident insurance, and the invalidity insurance were each regulated by a separate law or series of laws. At the time when the compulsory insurance system was introduced into Germany the plan of having the three branches of insurance adopted simultaneously was considered, but was declared by Bismarck to be a task of such magnitude that no other plan was feasible except to introduce the various branches of insurance one after the other. Furthermore, it was found necessary to introduce the insurance laws for the different industries, one after the other, so that while the first accident insurance law was enacted in 1884 it required five additional laws to cover all the industries which were intended to be included in this branch of the workmen's insurance system. A

*See Bulletin of the Bureau of Labor No. 96, Sept., 1911, of U. S. Government.

somewhat similar procedure was followed in the case of the sickness insurance and the invalidity and old-age insurance. All of the insurance laws were revised and to some extent codified between the years 1899 and 1903, but it was not until 1910 that a single law covering all phases of workmen's insurance was drafted by the German government. The codification of 1911 therefore represents the experience of a quarter of a century in a system of compulsory insurance covering practically the whole industrial population of the German Empire.

§ 596. **General features.**—The new workmen's insurance code has retained the former general scheme of organization; although frequently advocated, there has been no attempt to consolidate the organizations conducting the sickness, accident, and invalidity insurance. Separate administrative bodies conduct these three branches of insurance, while the new branch, the insurance for widows and orphans, or as the law terms it, "the survivors' insurance," is carried on by the invalidity insurance organizations. A new feature which the code introduces is the system of government offices to supervise the insurance organizations. The first of these new institutions is designated in the following translation as "local insurance office" (Versicherungsamt) and covers a district of small area, usually of one or a few communes or parishes. Above the local insurance office is the so-called "superior insurance office" (Oberversicherungsamt), which supervises operations in insurance matters and whose most important function is the work formerly performed by the arbitration courts for workmen's insurance which were abolished by the new law. The central administrative body is the Imperial insurance office (Reichsversicherungsamt), except in the case of Bavaria, the Kingdom of Saxony, Wurtemberg, and Baden, where state insurance offices

(Landesversicherungsamt) take the place of the Imperial insurance office for insurance organizations located entirely within the boundaries of these states. In all of these government offices the plan of having representatives of the employers and of the insured persons participate to a large degree in the administration of the insurance has been retained.

§ 597. Sickness insurance.—The workmen's insurance code provides for six types of sickness insurance funds: local sick funds, rural sick funds, establishment sick funds, guild sick funds, miner's sick funds, and substitute sick funds. The former communal or parish sickness insurance has been abolished. The local insurance funds provide the insurance for the greater number of insured persons, and in particular for persons not included in any of the other groups mentioned above; these funds are practically a continuation of the former local insurance funds and are also intended to provide for persons formerly included in the communal sickness insurance. The rural sick funds are a new institution and are not necessarily confined to rural districts, but may also exist for cities; these funds provide for the sickness insurance of household servants, persons engaged in home working industries, casual laborers, farm laborers, etc. This is the only new type of insurance fund provided for the sickness insurance. The other types of funds are practically the same as those instituted by former sickness insurance laws; the so-called substitute funds are merely the mutual-aid funds which are recognized under the preceding laws and which are allowed to continue, though under more careful supervision and with certain restrictions as to size, etc. The tendency of the new law has been to encourage sick funds of larger size, as experience had shown that funds with a smaller number of members did not possess a sufficient extensive actuarial basis.

The groups of persons brought under the compulsory sickness insurance for the first time are the following: Household servants, clerks and apprentices in pharmacies, members of orchestras and theatrical companies, teachers and tutors, persons engaged in home-working industries, ships' crews of German sea-going vessels and the crews of vessels engaged in inland navigation. Voluntary insurance is permitted under more liberal conditions than heretofore.

During the discussion of the provisions of the code an attempt was made to change the proportion of contributions paid by the employer and by the insured persons. As finally enacted, the existing plan of having employers pay one-third and the insured persons two-thirds of the contributions has been retained; in the case of members of guild sick funds, however, the contributions may be levied in the proportion of one-half upon each party.

The benefits of the sickness insurance are practically unchanged in the new law and consist of medical care, a sick wage, hospital care, and care in the home, together with an allowance for the family in the case of hospital treatment; in addition, a pecuniary sick benefit is paid in maternity cases for a period of eight weeks. The funeral benefit consists of 20 times the amount of the wage of the insured person used as a basis for computing dues and benefits. Under the law, the sick funds are allowed to vary these benefits in a number of ways, and likewise the funds may extend the amount and duration of the benefits in certain cases.

§ 598. **Accident insurance.**—The organization of the accident insurance is practically unchanged under the new code. The functions of the former subsidiary insurance institutes (Versicherungs-Anstalten) have been slightly increased, and in the future they will be designated as [5]"branch institutes" (Zweig-Anstalten).

Their special function is to porvide insurance for petty business undertakers of all kinds, and more especially in the building trades, livery and hauling, inland navigation, and marine navigation. These branch institutes are subsidiary organizations of the accident association for these industries and are administered either directly or indirectly by the governing bodies of the accident associations, though the branch institutes as heretofore have a legal and formal separate existence.

The classes of persons insured are still composed of workmen and administrative or operating officials; the latter, however, only in so far as their annual earnings do not exceed 5,000 marks ($1,190), this amount having previously been 3,000 marks ($714).

The new industry branches included in the insurance are certain groups of breweries, pharmacies, tanneries, bath establishments, fishing in inland waters, fish culture, ice cutting, and establishments conducted as a business for the keeping of livery stables for draft animals, riding animals, and breeding animals, and the keeping of conveyances and riding animals.

The accident insurance for agriculture and forestry and for marine navigation is practically unchanged.

The system of collecting assessments each year to cover the expenditures for the preceding year, modified by a reserve, the interest of which is intended to reduce the annual assessments, has not been changed. As heretofore, the branch institutes, however, annually collect premiums sufficient to cover the capitalized value of the pension granted instead of using the assessment system. Annual salaries in excess of 1,800 marks ($428) have only one-third of the excess counted. In agriculture a different basis of assessment may be used, namely, the so-called "labor-need," though the land tax, the area cultivated, or some other basis may also be used. No change has been made in the system of risk tariffs for industrial establishments.

The definition of industrial accidents has gradually been made more exact during the 25 years' experience under the various laws. The code does not include industrial or occupational diseases as accidents, but authorizes the federal council to include such diseases under accident insurance. The definition of an industrial accident as now prescribed specifies that it must be a sudden event occurring at a specific time, and having a causal connection with the operation of the establishment.

The benefits of the accident insurance have not been changed by the new code.

§ 599. Invalidity and survivors' insurance.—The invalidity insurance is conducted by territorial organizations, these organizations being directed by committees, etc., consisting one-half of employers and one-half of insured persons. The governments, either state or local, appoint the officials who conduct the current affairs of these organizations. For a few industries, such as transportation, mining, etc., "special institutes" are allowed to conduct the insurance of persons engaged in these industries.

The new feature of the insurance code is that relating to survivors' insurance, or, as it is popularly called, widows' and orphans' insurance. This branch of insurance is to be conducted by the territorial organizations which administer the invalidity insurance.

The new groups of persons included under the invalidity insurance are clerks and apprentices in pharmacies and members of orchestras and theater companies. By the decrees of the federal council the invalidity insurance has already been extended to persons engaged in home-working trades, to persons engaged in tobacco industries, and to a large proportion of persons engaged in textile industries. An effort has been made in the code to make the group of persons covered by the invalidity

insurance identical with that covered by the sickness insurance. The provisions as to voluntary insurance and as to the continuation of insurance in the case of a person who ceases to be employed in an industry requiring compulsory insurance have been made more liberal. An important innovation is that designated as "voluntary supplementary insurance," according to which the amount of the invalidity pension (but not of the other benefits) can be increased by payments of sums of 1 mark (23.8 cents) at any time and in any amount. Persons who have made such payments receive a supplementary pension equal to an annual sum consisting of 2 pfennigs (0.48 cents) for each mark so paid, multiplied by the number of years between the year of payment and the date of invalidity.

On account of the new features of the invalidity insurance, an increase in dues was necessary; the increase in the lower wage classes was one-fifth or less, while in the three upper wage classes, namely, those persons earning 550 marks ($130.90) or over, the increase in contributions is about one-third. As before, the contributions are paid one-half by the employers and one-half by the insured person, while the Empire annually grants a subsidy of 50 marks ($11.90) to each pension.

The former method of payments of contributions through stamps pasted on receipt cards has been retained; in the case of persons engaged for periods of time such as by a quarter or by the year, the stamps may be affixed at such intervals of time. Under certain circumstances the insured person himself may affix the stamps and require the employer to repay one-half of the contribution. All cards must be renewed at the local office of the insurance institute at least once in two years. The new code restricts the possibility of making effective a claim to a new valid pension which has once lapsed; in particular, the conditions are more strict for persons who have passed their fortieth year of life, and

especially difficult for those who have passed their sixtieth year.

Benefits are paid on the occurrence of "invalidity"; that is, a disability caused by sickness or physical defect which prevents the insured person from earning one-third of the amount which a normal person of similar training and status in life is able to earn. In this case the previous occupation and the person's aptitude for another occupation are taken into account in ascertaining his right to a pension.

Under the code, the invalidity pension consists of an annual subsidy from the Empire, a basic amount fixed by the number of contributions paid and a subsidy of one-tenth of the pension for each child of the pensioner under 15 years of age, with a maximum of five-tenths.

An old-age pension is paid after the completion of the seventieth year of life without regard to the physical condition of the claimant, and has not been changed as to its amount or as to the age limit.

The new widow's pension is a benefit paid to the invalid widow of an insured person, so long as she remains unmarried, and consists of an imperial subsidy of 50 marks ($11.90) annually, plus three-tenths of the invalidity pension of the deceased. The orphan's pension is paid to the orphans of the insured person under 15 years of age and consists of an annual subsidy from the Imperial government equal to 25 marks ($5.95) and three-twentieths of the invalidity pension of the deceased for one orphan, and one-fortieth of this pension for each additional orphan. The orphan's pension, however, may not exceed the amount of the invalidity pension of the deceased, and the total sum of the orphan's and widow's pensions may not be more than one and one-half times the pension of the deceased.

A new benefit designated as "widow money," is paid to such persons on the death of the insured person and

is equal to the amount of one year's pension of the widow, plus 50 marks ($11.90) Imperial subsidy.

Another new benefit is the orphan's benefit, paid when the orphan completes his fifteenth year of life, and is equal to eight times the monthly amount of the orphan's pension, plus 16 2-3 marks ($3.97) Imperial subsidy.

The date when all of the provisions of the new code are to be put into force is to be announced in the Reichs-Gesetzblatt. The issues of this gazette up to November 1, 1911, have not contained any orders on this subject.[1]

[1] The periodical Soziale Praxis of Oct. 19, 1911, contained the following statement:

"The postponement of the date when the workmen's insurance code goes into force to Jan. 1, 1913, is announced by the Zentralblatt der Reichsversicherung.

"The difficulties which developed in drawing up the administrative regulations for carrying into effect the imperial insurance code, both on the part of the imperial and of the State officials, made this postponement necessary. In particular the merging of the existing rules with the new regulations has required more time than was anticipated, and likewise the work necessary in connection with the new application of the insurance status to casual laborers and to the home-working industries showed that the earlier date was impossible, though heretofore the date of July 1, 1912, has been assumed to be the one which would be adopted.

"On the other hand, attention should be called to the fact that the regulations for the introduction of the insurance code, as stated in the introductory law to the code, came into force immediately upon their publication, namely, on Aug. 1, 1911, and that the provisions relating to the validity and survivors' insurance (Book Four) come into force on Jan. 1, 1912, without fail. The only question, therefore, is in regard to the regulations concerning the sickness insurance and the accident insurance. According to other reports, a definite date for putting these two parts of the insurance code into force has not yet been determined."

§ 600. Analysis of the code and the introductory law.

BOOK ONE.—GENERAL PROVISIONS.

	Article.
Section One.—Scope of the imperial insurance	1, 2
Section Two.—Carriers of the imperial insurance—	
I. Designation	3
II. Legal competence	4
III. Administrative bodies	5–11
IV. Honorary offices	12–24
V. Assets	25–29
VI. Supervision	30–34
Section Three.—Insurance authorities—	
1. General provisions	35
II. Local insurance offices—	
1. Establishment	36–38
2. Composition	39–55
3. Committees	56–58
4. Costs	59, 60
III. Superior insurance offices—	
1. Establishment	61–67
2. Composition	68–76
3. Chambers	77, 78
4. Supervision—Costs	79–82
IV. Imperial Insurance Office—State insurance offices—	
1. Jurisdiction—Seat	83, 84
2. Composition	85–97
3. Senates	98–102
4. Accounting bureau—Costs	103, 104
5. State insurance offices	105–109
Section Four.—Other general provisions—	
I. Authorities	110–114
II. Legal assistance	115–117
III. Benefits	118–121
IV. Medical treatment	122, 123
V. Time limits	124–134
VI. Notifications	135, 136
VII. Fees and stamp taxes	137, 138
VIII. Prohibitions and penalties	139–148
IX. Local wage rate	149–152
X. Place of employment	153–156
XI. Legislation of foreign countries	157, 158
XII. General definitions—	
1. Employments subject to insurance	159
2. Earnings	160
3. Agriculture	161
4. Persons engaged in home-working industries	162

Article.
5. German seagoing vessels 163
6. Fiscal year 164

BOOK TWO.—SICKNESS INSURANCE.

Section One.—Scope of the insurance—
I. Compulsory insurance 165–175
II. Voluntary insurance 176–178
Section Two.—Benefits of the insurance—
I. General provisions as to benefits 179–181
II. Sickness benefits 182–194
III. Maternity benefits 195–200
IV. Funeral benefits 201–204
V. Benefits to the family 205
VI. General provisions 206–224
Section Three.—Carriers of the insurance—
I. Kinds of sick funds 225
II. General local sick funds and rural sick funds 226–238
III. Special local sick funds 239–244
IV. Establishment sick funds and guild sick funds 245–257
V. Controversies 258
VI. Benefits of equal value 259–263
VII. Combination, separation, dissolution, and closing—
1. Local and rural sick funds 264–269
2. Establishment and guild sick funds 270–279
3. Procedure 280–305
Section Four.—Constitution—
I. Membership—
1. Beginning and termination 306–316
2. Registration 317–319
II. Constitution 320–326
III. Administrative bodies of the funds—
1. Organization of local and rural sick funds 327–337
2. Organization of establishment and guild sick funds 338–341
3. Duties 342–348
IV. Employés and officials of the fund 349–362
V. Administration of resources 363–367
VI. Relation to physicians, dentists, hospitals, and pharmacies 368–376
Section Five.—Supervision 377–379
Section Six.—Raising of the funds—
I. Contributions 380–392
II. Payment of the contributions 393–405
Section Seven.—Federations of funds.—Sections 406–415
Section Eight.—Special occupations—
I. General provisions 416
II. Agriculture 417–434

	Article.
III. Servants	435–440
IV. Temporary employment	441–458
V. Itinerant trades	459–465
VI. Home-working industries	466–493
VII. Apprentices	494
Section Nine.—Miners' sick funds	495–502
Section Ten.—Substitute funds—	
I. Authorization	503–516
II. Relation to sick funds	517–525
Section Eleven.—Final provisions and penal provisions—	
I. Final provisions	526–528
II. Penal provisions	529–536

BOOK THREE.—ACCIDENT INSURANCE.

Part One.—Industrial accident insurance—	
Section One.—Scope of the insurance	537–554
Section Two.—Benefits of the insurance	555–622
Section Three.—Carriers of the insurance—	
I. The accident associations and other carriers of the insurance	623–629
II. Composition of the accident associations	630–634
III. Changes in the status of the accident associations	635–648
Section Four.—Organization of the accident associations—	
I. Membership and the right to vote	649–652
II. Registration of the establishment	653–656
III. Register of establishments	657–663
IV. Changes in the undertakers—Changes in the establishment and in its membership in the accident association	664–674
V. Constitution	675–684
VI. Administrative bodies of the accident association	685–689
VII. Employés of associations	690–705
VIII. Formation of the risk classes	706–712
IX. Division and joint carrying of the burden	713-716
X. Administration of the assets	717–721
Section Five.—Supervision	722–725
Section Six.—Payment of the compensation—Raising of the funds—	
I. Payments through the Post Office Department	726–730
II. Raising of the funds	731–748
III. Procedure in assessments and collections	749–776
IV. Transferring amounts to the Post Office Department	777–782
Section Seven.—Branch institutes—	
I. Branch institutes for the building trades—	
1. Establishment, scope, and organization	783–798

	Article.
2. Insurance at the expense of the undertakers—	
Premiums	799–824
3. Insurance at the cost of communes	825–835
II. Branch institutes for the keeping of riding animals and conveyances	836–842
Section Eight.—Additional institutions	843–847
Section Nine.—Accident prevention—Supervision—	
I. Regulations for accident prevention	848–873
II. Supervision	874–889
III. Special provisions for building operations and for the keeping of riding animals and conveyances	890-891
Section Ten.—Establishments and activities on account of public bodies	892–897
Section Eleven.—Liability of undertakers and their representatives—	
I. Liability to injured persons and survivors	898–902
II. Liability to accident associations, sick funds, etc.	903–907
Section Twelve.—Penal provisions	908–914
Part Two.—Agricultural accident insurance—	
Section One.—Scope of the insurance	915–929
Section Two.—Benefits of the insurance	930–955
Section Three.—Carriers of the insurance—	
I. Accident associations and other carriers of the insurance	956–959
II. Changes in the status of the accident association	960, 961
Section Four.—Organization—	
I. Membership and right to vote	962–966
II. Registration of the establishments	967
III. Changes in the undertakers—Changes in the establishment and in its membership in the accident association	968–970
IV. Constitution	971–974
V. Administrative bodies of the accident association	975–977
VI. Employés of the association	978
VII. Formation of the risk classes	979
VIII. Division and joint carrying of the burden	980–982
IX. Administration of the assets	983, 984
Section Five.—Supervision	985–987
Section Six.—Payment of the compensation—Raising of the funds—	
I. Payments through the Post Office Department	988
II. Raising of the funds—	
1. General provisions	989
2. Standard of the labor need and of the risk classes	990–1004

Article.
3. Standard of the tax rate 1005–1009
4. Other standards 1010
5. General provisions 1011–1013
III. Procedure in assessments and collections 1014–1027
IV. Transferring amounts to the Post Office Department 1028
Section Seven.—Additional institutions 1029
Section Eight.—Accident prevention—Supervision 1030-1032
Section Nine.—Establishments of the Empire and of the States 1033
Section Ten.—Regulation by State legislation 1034–1041
Section Eleven.—Liability of undertakers and their representatives 1042
Section Twelve.—Penal provisions 1043–1045
Part Three.—Navigation accident association—
Section One.—Scope of the insurance 1046–1064
Section Two.—Benefits of the insurance 1065–1117
Section Three.—Carriers of the insurance 1118–1122
Section Four.—Organization—
I. Membership and right to vote—Representatives 1123–1131
II. Registration of establishments 1132
III. Register of establishments 1133, 1134
IV. Changes in the conditions of the establishment 1135–1141
V. Constitution 1142–1145
VI. Administrative bodies of the accident association 1146
VII. Employés of the association 1147
VIII. Making the estimates—Risk tariff and special costs 1148–1156
IX. Administration of the assets 1157
Section Five.—Supervision 1158
Section Six.—Payment of the compensation—Raising of the funds—
I. Payments through the Post Office Department 1159–1161
II. Raising of the funds 1162–1164
III. Procedure in assessments and collections 1165–1184
IV. Transferring amounts to the Post Office Department 1185
Section Seven.—Branch institute for small-scale establishments engaged in navigation and in deep-sea fishing and coast fishing 1186–1197
Section Eight.—Additional institutions 1198
Section Nine.—Accident prevention—Supervision—
I. Regulations for the prevention of accidents 1199–1208
II. Supervision 1209–1217
Section Ten.—Establishments of the Empire and of the States 1218
Section Eleven.—Liability of undertakers and their representatives 1219
Section Twelve.—Penal provisions 1220–1225

BOOK FOUR.—INVALIDITY AND SURVIVORS' INSURANCE.

	Article.
Section One.—Scope of the insurance—	
I. Compulsory insurance	1226–1242
II. Voluntary insurance	1243, 1244
III. Wage classes	1245–1249
Section Two.—Benefits of the insurance—	
I. General provisions	1250–1254
II. Invalidity pensions	1255, 1256
III. Old-age pensions	1257
IV. Benefits of survivors	1258–1268
V. Medical treatment	1269–1274
VI. Payments in kind instead of pensions	1275–1277
VII. Waiting term	1278, 1279
VIII. Expiration of the claim	1280–1283
IX. Computation of insurance benefits	1284–1297
X. Cessation of the benefits	1298–1303
XI. Withdrawal of the pension	1304–1310
XII. Suspension of the pension—Capital sum settlements	1311–1318
XIII. Special powers of the insurance institute	1319, 1320
XIV. Relation to other claims	1321–1325
Section Three.—Carriers of the insurance—	
A. Insurance institutes—	
I. External features—	
1. Establishment	1326–1328
2. Local competence	1329–1331
3. Changes in the districts	1332–1337
II. Internal features—	
1. Constitution	1338–1341
2. Directorate	1342–1350
3. Committee	1351–1355
4. Administration of the assets	1356–1358
5. General provisions	1359
B. Special institutes—	
1. General provisions	1360–1374
2. Special institute of the navigation accident association	1375–1380
Section Four.—Supervision	1381, 1382
Section Five.—Payment of the benefits—Raising of the funds—	
I. Payment through the Post Office Department	1383–1386
II. Raising of the funds—	
1. General provisions	1387
2. Size of the contributions	1388–1392

Article.

3. Periods of military service and of sickness__ 1393, 1394
4. General cost—Special cost_____ 1395–1400
5. Reinsurance federation _____ 1401
6. Liability for the obligations of the institute_ 1402
7. Distribution and refunding of the insurance benefits—
Transferring amounts to the Post Office Department _____ 1403–1410

Section Six.—Procedure as to contributions—
I. Stamps _____ 1411, 1412
II. Receipt cards _____ 1413–1425
III. Payment of contributions through the employer—
Proof of military service and of sickness_____ 1426–1438
IV. Payment of the contributions by the insured persons _____ 1439–1441
V. Invalid contributions _____ 1442–1445
VI. Contributions paid in error_____ 1446
VII. Collecting the contributions_____ 1447–1457
VIII. Rounding off the amounts_____ 1458
IX. Controversies as to contributions_____ 1459–1464
X. Supervision _____ 1465–1470
XI. Special provisions _____ 1471
Section Seven.—Voluntary additional insurance_____ 1472–1483
Section Eight.—Final provisions and penal provisions—
I. Sick funds _____ 1484
II. Special provisions for seamen_____ 1485, 1486
III. Penal provisions _____ 1487–1500

BOOK FIVE.—RELATIONS OF THE INSURANCE CARRIERS TO EACH OTHER AND TO OTHER BODIES.

Section One.—Relations of the insurance carriers to each other—
I. Sickness insurance and accident insurance_____ 1501–1517
II. Sickness insurance and invalidity and survivors' insurance _____ 1518–1521
III. Accident insurance and invalidity and survivors' insurance _____ 1522–1526
Section Two.—Relations of the insurance carriers to other bodies _____ 1527–1544

BOOK SIX.—PROCEDURE.

A. Determination of benefits—
Section One.—Determination by the insurance carrier—
I. Inauguration of the procedure_____ 1545–1550
II. Sickness insurance _____ 1551

III. Accident insurance— Article.
1. Reports of accidents 1552–1558
2. Investigation of accidents 1559–1567
3. Decisions of insurance carriers—
a. General provisions 1568–1582
b. Decision 1583–1590
c. Protest 1591–1599
d. Special provisions for the protest against changes in permanent pensions 1600–1605
e. Final decision 1606, 1607
f. Other provisions 1608-1612
IV. Invalidity and survivors' insurance—
1. Submission of claims 1613–1616
2. Preparation of the case by the local insurance office 1617–1629
3. Decision of the insurance carriers 1630–1634
4. Renewal of applications 1635
Section Two.—Determination by judgment procedure—
I. Procedure before the local insurance office—
1. Competence of the local insurance office 1636–1640
2. Disqualification and rejection of members of the judgment committee 1641– 649
3. Procedure up to the oral proceedings 1650–1659
4. Oral proceedings 1660–1674
II. Procedure before the superior insurance office 1675–1693
III. Procedure before the Imperial Insurance Office (or the State insurance office)—
1. Sickness, and invalidity and survivors' insurance 1694–1698
2. Accident insurance 1699–1706
3. General provisions 1707–1721
IV. Reopening of the procedure—
1. Grounds for contesting 1722–1726
2. Competence 1727
3. Course of the procedure 1728–1733
4. Final provisions 1734
Section Three.—Special kinds of procedure—
I. Controversies of several insurance carriers in regard to the obligation to furnish compensation 1735-1738
II. Procedure of distribution 1739–1742
III. Determination of the validity of a claim to a widow's pension 1743

IV. Contesting the final decisions of the insurance carrier ---------- 1744
Section Four.—Special provisions for the navigation accident insurance—
I. General provisions ---------- 1745
II. Reporting of accidents---------- 1746–1752
III. Investigation of accidents---------- 1753–1766
IV. Penal provisions ---------- 1767
V. Competence of the administrative bodies for determinations---------- 1768, 1769
VI. Controversies ---------- 1770
B. Other judgment matters—
I. General provisions ---------- 1771
II. Reporting of accidents ---------- 1746-1752
III. Other provisions ---------- 1776–1779
C. Decision procedure—
Section One.—General provisions---------- 1780–1790
Section Two.—Appeals ---------- 1791–1796
Section Three.—Further appeals---------- 1797–1801
D. Costs and fees—
I. Costs of the procedure---------- 1802-1803
II. Fees of lawyers---------- 1804-1805

Introductory Law for the Workmen's Insurance Code:
Section A—
I. General provisions ---------- 1–6
II. Insurance authorities ---------- 7–13
III. Sickness insurance ---------- 14–42
IV. Accident insurance ---------- 43–63
V. Invalidity and survivors' insurance---------- 64–84
VI. Procedure ---------- 85–99
VII. Final provision ---------- 100
Section B ---------- 101–104

APPENDIX

CHAPTER XXXVI.

TEXT OF GERMAN CODE OF 1911.[1]

§ 601. The Act.—The German Workmen's Insurance Code of 1911, translated into English reads as follows:

BOOK ONE—GENERAL PROVISIONS.

SECTION ONE—SCOPE OF THE IMPERIAL INSURANCE.

ARTICLE 1.

Included in the imperial insurance (*Reichsversicherung*) are—
The sickness insurance (*Krankenversicherung*);
The accident insurance (*Unfallversicherung*);
The invalidity and survivors' insurance (*Invaliden- und Hinterbliebenenversicherung*).

ARTICLE 2.

Of the special provision—
Articles 165 to 536 apply to the sickness insurance;
Articles 537 to 1225 apply to the accident insurance, of which articles 537 to 914 apply to the industrial (*gewerbliche*), articles 915 to 1045 to the agricultural (*landwirtschaftliche*), and articles 1046 to 1225 to the navigation accident insurance (*See-Unfallversicherung*);
Articles 1226 to 1500 apply to the invalidity and survivors' insurance.

SECTION TWO—CARRIERS OF THE IMPERIAL INSURANCE.

I. DESIGNATION.

ARTICLE 3.

PARAGRAPH 1. The following are the carriers (*Träger*) of the imperial insurance unless this law provides otherwise:
For the sickness insurance, the sick funds (*Krankenkassen*);
For the accident insurance, the employers' mutual trade associations (*Berufsgenossenschaften*);[2]
For the invalidity and survivor's insurance, the insurance institutes (*Versicherungsanstalten*).

PAR. 2. The provisions of article 4 to 34 apply to these insurance carriers.

II. LEGAL COMPETENCE.

ARTICLE 4.

The carriers of insurance may sue and be sued.

[1] Reichsversicherungsordnung. (Number 3921.) Vom 19. Juli 1911. Reichs-Gesetzblatt, Aug. 1, 1911, pp. 509 ff.

[2] In the following translation the Berufsgenossenschaften have been designated as "accident associations."

III. ADMINISTRATIVE BODIES.

ARTICLE 5.

PARAGRAPH 1. Each carrier of insurance has a directorate. The latter represents it in and out of court. It has the status of a legal representative.

PAR. 2. Restrictions on the scope of this representation, not specified in the law, may be specified by the constitution, and have effect against third parties. The constitution may do this only in so far as this law permits.

PAR. 3. The constitution may specify, that also individual members of the directorate of the insurance carriers may represent them.

ARTICLE 6.

PARAGRAPH 1. The directorate must notify its supervisory authority within one week of the result of each election and of each change in its composition.

PAR. 2. In so far as the directorate needs credentials, a certificate of the supervisory officials as regards its composition and the extent of its power of representation suffices.

ARTICLE 7.

In urgent matters the directorate may take vote by correspondence.

ARTICLE 8.

PARAGRAPH 1. If decisions of the administrative bodies of the insurance carrier are contrary to the law or the constitution, the president of the directorate shall appeal from them to the supervisory authority.

PAR. 2. The appeal effects a stay.

ARTICLE 9.

In the administrative bodies their president has the right to vote, and if there is a tie he gives the casting vote.

ARTICLE 10.

The required number of substitutes for the members shall be elected.

ARTICLE 11.

The sessions are not public.

IV. HONORARY OFFICES.

ARTICLE 12.

PARAGRAPH 1. Only Germans who have attained their majority are eligible to the administrative bodies of the insurance carriers.

PAR. 2. The following are not eligible:

1. Persons who in consequence of criminal sentence have lost the right to hold public office, or who are being prosecuted at the time for a crime or misdemeanor which may cause the loss of this right, in case full proceedings have been begun against them;
2. Persons who are limited in the disposition of their property as the result of a court degree.

ARTICLE 13.

PARAGRAPH 1. Whoever regularly employs at least one person subject to insurance, and this person is insured with the insurance carrier, is eligible as a representative of the undertakers (*Unternehmer*)[1] or of other employers.

[1]The undertaker of an establishment is the one for whose account the establishment is conducted. See sec. 633.

PAR. 2. Managers of establishments having a power of attorney have the same status as undertakers or other employers; business managers, and establishment officials of participating employers (art. 332, par. 2), have the same status as employers in the election to administrative bodies of sick funds; the legal representatives of members of an accident association have the same status as undertakers in the elections to the administrative bodies of accident associations.

PAR. 3. Members of a public authority with supervisory powers over a carrier of insurance are not eligible.

ARTICLE 14.

PARAGRAPH 1. Only persons insured in the insurance carrier are eligible as representatives of the insured persons.

PAR. 2. In the sickness, invalidity, and survivors' insurance, the insured persons will be accredited to the employers in the composition of the administrative bodies, if they employ regularly more than two persons subject to insurance. In the accident insurance insured members of the accident associations are accredited to the undertakers if they employ regularly at least one person subject to insurance.

ARTICLE 15.

PARAGRAPH 1. The representatives of the undertakers and of other employers and of the insured persons are elected according to the principles of proportional representation.

PAR. 2. If the voting is restricted to nomination lists, the constitution determines the time limit for their submission; the election is secret, without affecting the nomination lists.

ARTICLE 16.

PARAGRAPH 1. The term of office is four years.

PAR. 2. After the expiration of this term, the elected persons remain in office until their successors take office.

PAR. 3. Whoever ceases to hold office may be re-elected.

ARTICLE 17.

PARAGRAPH 1. Whoever is eligible as an undertaker or other employer may refuse election only under the following conditions:

1. If he has completed his sixtieth year of age.
2. If he has more than four legal children under age; those of his children adopted by another will not be included herewith.
3. If he is prevented by sickness or infirmity from administering the office as required by the regulations.
4. If he has more than one guardianship or trusteeship. The guardianship or trusteeship of children of the same parents counts only as one such; two coguardianships are equal to one guardianship; one honorary office of the imperial insurance is equal to one coguardianship.
5. If he employs servants only.

PAR. 2. After a minimum tenure of office of two years, re-election for the next term may be declined.

PAR. 3. The constitution may also specify other reasons for declining.

ARTICLE 18.

An undertaker or other employer declining an election without permissible cause may be punished by the president of the directorate by a fine up to 500 marks [$119].

ARTICLE 19.

The president may fine a member of the directorate who fails to perform his duties not to exceed 50 marks [$11.90], and on repetition with a fine not to exceed 300 marks [$71.40]; if, however, the matter relates to a sick fund, then only up to 100 marks [$23.80]. He must remit the fine if a sufficient excuse is established afterwards.

ARTICLE 20.

The decision of a supervisory authority in appeals on cases referred to in articles 18 and 19 is final.

ARTICLE 21.

PARAGRAPH 1. The persons elected administer their offices without compensation as an honorary office.

PAR. 2. The insurance carrier refunds them their cash expenditures and allows to the representatives of the insured persons reimbursement for earnings lost or in its place a lump sum for loss of time. The constitution may also allow such a lump sum to the representatives of undertakers or other employers.

PAR. 3. The determination of the lump sums requires confirmation by the authority which approves the constitution.

PAR. 4. The honorary members of the directorate shall not at the same time be salaried officials of the insurance carrier.

ARTICLE 22.

The representatives of the insured persons must notify their employer of each call to a meeting of the administrative bodies. If this is done within the required time their absence from work does not give the employer a sufficient reason to discontinue the relation of employer without observance of the regular period of notice of dismissal.

ARTICLE 23.

PARAGRAPH 1. The members of administrative bodies are liable for faithful business administration to the carriers of insurance in the same manner as guardians to their wards. The insurance carrier may relinquish claims on account of such liability only with the approval of the supervisory authority. The latter may enforce the liability in the place of and at the expense of the carrier.

PAR. 2. A member who intentionally injures the insurance carrier shall be punished with confinement in jail. In addition the penalty can also include the loss of civic rights. If the member has committed an act to procure for himself or some other person a pecuniary advantage, in addition to the prison sentence a fine not to exceed 3,000 marks [$714] may be imposed.

PAR. 3. During a discussion of those questions which affect the personal interests of a member or his relatives the member must abstain from taking part in the discussion and voting, and during the discussion must leave the room where the discusion takes place.

ARTICLE 24.

PARAGRAPH 1. If facts become known concerning an elected person which prove his ineligibility or his untrustworthiness for the conduct of business, he shall by resolution be removed from office, either by the directorate, or, in the case of a sick fund, by the supervisory authority.

PAR. 2. Before the passing of such a resolution he shall be given an opportunity to make a statement.

PAR. 3. An appeal against the resolution is permissible to the Imperial Insurance Office (decision senate) (*Beschlussenat*), or, if the case relates to a sick fund, to the superior insurance office (decision chamber) (*Beschlusskammer*).

PAR. 4. An elected person will be relieved of his office on his own application by resolution of the directorate if during his term of office one of the grounds of refusal specified in article 17, paragraph 1, numbers 2 to 5, becomes effective.

V. ASSETS.

ARTICLE 25.

PARAGRAPH 1. The means of insurance carriers shall be used only for legally prescribed and permissible purposes.

PAR. 2. Revenues and expenditures shall be accounted for separately and the assets kept safe separately.

PAR. 3. The insurance carriers shall engage only in such business as is assigned to them by the law.

ARTICLE 26.

PARAGRAPH 1. The assets shall be invested at interest like trust funds (arts. 1807 and 1808 of the Civil Code) in so far as this law does not permit other investments.

PAR. 2. The assets may also be invested in securities in which the laws of the States permit the investment of trust funds, and also in such mortgages, payable to the holder, of German joint-stock mortgage banks, on which the imperial bank (*Reichsbank*) makes loans in Class I.

ARTICLE 27.

PARAGRAPH 1. The highest administrative authority may also approve the investment of the assets in loans of communes or unions of communes in so far as this is not already permissible according to article 26, paragraph 1.

PAR. 2. The authority may limit the investment in certain classes of interest-bearing securities to a specified amount.

PAR. 3. If the district of the insurance carrier embraces territories or parts of territories of several federal States, the approval of their highest administrative authority is required for such investments.

PAR. 4. The highest administrative authority may permit, with the right of withdrawing this permission, that temporarily available assets may be invested in another manner.

ARTICLE 28.

PARAGRAPH 1. Arrears shall be collected in the same manner as communal taxes. The staying effect of objections to the obligation of payment is regulated according to the State laws.

PAR. 2. The constitution of the insurance carrier may determine, as far as not already prescribed by the State laws, that the procedure of collection be preceded by a procedure of warning, and that a fee may be collected for such procedure of warning. This fee is collected in the same manner as arrears. The determination of its amount requires the approval of the supervisory authority.

PAR. 3. Arrears have preference of other claims according to article 61, number 1, of the bankruptcy law (*Konkursordnung*).

ARTICLE 29.

PARAGRAPH 1. The claim to arrears lapses, as far as they have not been fraudulently withheld, in two years after the expiration of the calendar year when they are due.

PAR. 2. The claim for refund of contributions lapses in six months after the expiration of the calendar year of their payment, with reservation as to article 1446, paragraph 2, and articles 1462 and 1464.

PAR. 3. The claim for benefit payments from the insurance carrier lapses in four years after they are due, in so far as this law does not prescribe otherwise.

VI. SUPERVISION.

ARTICLE 30.

The right of supervision of the supervisory authority consists in seeing that the law and constitution are observed.

ARTICLE 31.

PARAGRAPH 1. The supervisory authority may examine at any time the business and accounting management of the insurance carrier.

PAR. 2. The members of its administrative bodies, its district agents (*Vertrauensmänner*), officials, and employés must produce, on demand, to the supervisory authority or its representatives all books, bills, vouchers, and records, and also documents, securities, and assets in their custody, and give all information demanded in the execution of the right of supervision.

PAR. 3. The supervisory authority may require the persons specified in paragraph 2, under reservation of article 985, paragraph 2, to observe the law and the constitution, by fines not to exceed 1,000 marks [$238].

ARTICLE 32.

The supervisory authority may demand that the administrative bodies be called into session; and if such demand is not complied with, may themselves call meetings and take charge of the proceedings.

ARTICLE 33.

The supervisory authority decides, without derogation of the rights of third parties and as far as the law does not prescribe otherwise, in disputes as to the rights and obligations of the administrative bodies, as to the interpretation of the constitution and as to the validity of elections.

ARTICLE 34.

PARAGRAPH 1. Subject to the supervision are also convalescent homes, medical institutions, and sanatoria (*Genesungsheime, Heil- und Pflegeanstalten*) created and maintained by the insurance carrier.

PAR. 2. The supervisory authority may in its inspections call to its assistance representatives of employers and of the insured persons.

SECTION THREE.—INSURANCE AUTHORITIES.

I. GENERAL PROVISIONS.

ARTICLE 35.

PARAGRAPH 1. The public authorities of the imperial insurance are—

The local insurance offices (*Versicherungsämter*) (arts. to 60);

The superior insurance offices (*Oberversicherungsämter*) (arts. 61 to 82);

The Imperial Insurance Office (*Reichsversicherungsamt*) and the State insurance offices (*Landsversicherungsämter*) (arts. 83 to 109).

PAR. 2. As far as this law does not regulate the business management and the procedure of the insurance authorities, it shall be done, with reservations of article 109, paragraph 1, by imperial decree with the approval of the Federal Council.

II. LOCAL INSURANCE OFFICES.

1. Establishment.

ARTICLE 36.

PARAGRAPH 1. In each inferior administrative authority there shall be established a section for workmen's insurance (local insurance

office). The highest administrative authority may specify that there shall be established for the districts of several inferior administrative authorities a joint local insurance office.

PAR. 2. The State governments of several federal States may agree to establish for their territories or parts thereof a joint local insurance office in an inferior administrative authority.

ARTICLE 37.

PARAGRAPH 1. The local insurance offices take cognizance of the business of the imperial insurance according to the provisions of this law, and impart information in affairs pertaining to the imperial insurance.

PAR. 2. They may support the insurance carriers in the latters' affairs according to the provisions of this law.

PAR. 3. The State government may assign to the local insurance offices other duties pertaining to miners' insurance.

ARTICLE 38.

In federal States in which the composition of the State authorities does not permit of the establishment of local insurance offices at the inferior administrative authorities and where there exists only a superior insurance office, the local insurance offices can also be established as independent authorities. The highest administrative authority shall specify the details herewith.

2. Composition.

ARTICLE 39.

PARAGRAPH 1. The director of the inferior administrative authority is the president of the local insurance office. One or more permanent substitutes of the president are to be appointed. Any person qualified by education and experience in workmen's insurance affairs may be appointed a substitute.

PAR. 2. The appointment requires the approval of the superior insurance office, in so far as the permanent substitutes are not appointed according to State law in the same manner as the higher administrative officials.

PAR. 3. If the local insurance office is created in a communal authority, the substitutes are appointed by the president of the union of communes whose district contains that of the local insurance office. Where the State law prescribes a confirmation for the election of higher communal officials, it is also applicable to the appointment of substitutes for the president of the local insurance office.

ARTICLE 40.

PARAGRAPH 1. In the cases specified by the law there shall be called in representatives of the insurance (*Versicherungsvertreter*) as associates (*Beisitzer*) of the local insurance office.

PAR. 2. They shall be selected one-half from the employers and one-half from the insured persons.

ARTICLE 41.

PARAGRAPH 1. Their total number must be at least 12; with the approval of the superior insurance office, the number may be augmented by the local insurance office, or by the former after a hearing of the local insurance office.

PAR. 2. A representative of the insurance shall not also be a salaried official of the local insurance office, or a representative of the insurance at another local insurance office, or an associate in a superior insurance office, or a nonpermanent member of the imperial or of a State insurance office.

ARTICLE 42.

PARAGRAPH 1. Representatives of the insurance are elected by the members of the directorates of those sick funds which have at least 50 members in the district of the local insurance office.

PAR. 2. The members of the directorates of the three groups of funds mentioned herewith participate in the election in so far as they have at least 50 members in the district of the local insurance office; of the substitute funds, and funds located outside of the local insurance office, moreover only if they notify in due time the person in charge of the election of their participation and prove the number of their members in this district; these three groups of funds are—

1. The miners' sick funds;
2. The substitute sick funds;
3. The seamen's funds, and other associations of seamen for the preservation of their rights, approved by the authorities.

PAR. 3. In place of the representatives of the insured persons in the directorate, the votes shall be cast by—

In the case of the miners' sick funds, the elders of the miners' sick funds competent for the district of the local insurance office;

In the case of the substitute funds which have local administrative offices, the business managers of the local administrations competent for the district of the local insurance office.

ARTICLE 43.

The number of votes of a fund depends on its number of members in the district of the local insurance office, and shall be determined by the latter before each election. The number of votes shall be evenly divided among the members of the directorates and among the persons entitled to vote in their place according to article 42, paragraph 3.

ARTICLE 44.

PARAGRAPH 1. In the directorates of the funds the members who are employers take part only in the election of representatives of the employers, the members who are insured persons in the election of representatives of the insured persons.

PAR. 2. Directorates which contain no employers, participate only in the election of the representatives of the insured persons.

PAR. 3. In the case of funds of the kind designated in article 42, paragraph 2, which have no representatives of the insured persons in the directorate, the voting is done by other workmen's representatives who are in the fund.

PAR. 4. Whatever relates to the directorates is also applicable to the persons entitled to vote in their place according to article 42, paragraph 3.

ARTICLE 45.

PARAGRAPH 1. The voting is done by written ballot and on the principle of proportional representation. The highest administrative authority decrees the election regulations.

PAR. 2. The president of the local insurance office shall conduct the election.

PAR. 3. Election disputes are decided finally by the superior insurance office.

ARTICLE 46.

PARAGRAPH 1. For the representatives of the insurance, substitutes are specified in the same manner according to need.

PAR. 2. Substitutes replace representatives of the insurance who leave before the expiration of their terms.

ARTICLE 47.

PARAGRAPH 1. Only men who reside or have the seat of their establishment or are employed in the district of the local insurance office, and who are not ineligible according to article 12, are eligible.

PAR. 2. Only insured persons, their employers, and the latters' managers of establishments with power of attorney are eligible. Insured persons are accredited to the employers, if they regularly employ more than two persons subject to insurance.

PAR. 3. In the case of local insurance offices on the seacoast, navigators of practical experience who are not shipowners, or managers of ship-owning establishments (shipping agents, arts. 492 to 499 of the Commercial Code), or who do not hold a power of attorney, may also be elected as representatives of the insured persons.

ARTICLE 48.

At least one-half of the representatives of the insurance must be participants in the accident insurance.

ARTICLE 49.

PARAGRAPH 1. At least one-third of the representatives of the insurance shall reside or be employed at the seat of the local insurance office itself, or not more than 10 kilometers [6.21 miles] distant from it.

PAR. 2. The principal branches of industry, especially agriculture, and the different parts of the district shall be considered in the election.

PAR. 3. The highest administrative authority may decree special or exceptional provisions herewith.

ARTICLE 50.

PARAGRAPH 1. Articles 16, 17, and 22 are correspondingly applicable; but the local insurance office determines the admissibility of other reasons for declining.

PAR. 2. As long and in so far as no election takes place, or the persons elected refuse to perform their duties, the president of the local insurance office appoints representatives from the number of eligible persons.

ARTICLE 51.

PARAGRAPH 1. Whoever declines the election or appointment without a permissible reason, may be punished by the president of the local insurance office with a fine not to exceed 50 marks [$11.90].

PAR. 2. The local insurance office may release a representative from his office if a sufficient reason exists.

PAR. 3. On appeal the superior insurance office (decision chamber) decides finally.

ARTICLE 52.

PARAGRAPH 1. If facts become known concerning a representative of the insurance which prove his ineligibility or which show that he is guilty of malfeasance of his office, he may be removed from his office by the president.

PAR. 2. On appeal the superior insurance office (decision chamber) decides finally.

ARTICLE 53.

PARAGRAPH 1. The president of the local insurance office obligates the representatives of the insurance to the faithful discharge of their duties.

PAR. 2. The president may punish a representative who fails to perform his duties with a fine not to exceed 30 marks [$7.14] and on repetition not to exceed 100 marks [$23.80]. He must remit the fine if afterwards a sufficient excuse is established.

PAR. 3. On appeal the Imperial Insurance Office (decision chamber) decides finally.

ARTICLE 54.

PARAGRAPH 1. The representatives administer their office without compensation as an honorary office.

PAR. 2. The local insurance office shall reimburse them for their cash expenditures.

PAR. 3. In addition it shall grant to the representatives of the insured persons reimbursements for lost earnings, or in place thereof a lump sum for their loss of time. It may also allow such a lump sum to the representatives of the employers. The lump sums require the approval of the superior insurance office (decision chamber).

ARTICLE 55.

The local insurance office may assign specified official duties to the representatives as its district agents.

3. Committees.

ARTICLE 56.

PARAGRAPH 1. Each local insurance office creates one or more judgment committees for matters which this law assigns to the judgment procedure (*Spruchverfahren*).

PAR. 2. The judgment committee (*Spruchausschuss*) consists of the president of the local insurance office and of one representative for the employers and one for the insured persons.

ARTICLE 57.

PARAGRAPH 1. Each local insurance office creates a decision committee (*Beschlussausschuss*) for matters which this law assigns to the decision procedure (*Beschlussverfahren*).

PAR. 2. The decision committee consists of the president of the local insurance office and of two representatives of the insurance. Of these, the representatives of the employers and of the insured persons each elect one from among themselves, together with at least one substitute; the elections of the two parties shall be separate, shall be by simple majority of votes, and the term of office shall be four years.

ARTICLE 58.

The highest administrative authority can specify how far the local insurance office may call in for the decision procedure technical government and communal officials of its district as advisors (*Beiräte*) with consultative vote.

4. Costs.

ARTICLE 59.

PARAGRAPH 1. The federal State defrays all costs of the local insurance office. If the local insurance office is created in a communal authority, they are defrayed by the union of communes whose district embraces that of the local insurance office. The highest administrative authority determines the division of costs, if there is a joint local insurance office created for the districts of several inferior administrative authorities.

PAR. 2. With the exception of the allowances of the insurance representatives, the insurance carriers have to defray the cash expenditures originating from judicial matters (arts. 1591 to 1674) so far as the cash expenditures are not to be defrayed according to paragraph 3.

PAR. 3. Fines, according to article 51, paragraph 1, article 53, paragraph 2, article 1577, paragraph 1, article 1617, paragraph 1, article 1626, paragraph 1, article 1652, paragraph 3, and article 1664, paragraph 1, as well as specially imposed costs of procedure (art.

1802) and contibutions according to article 60, accrue to the treasury of the federal State or of the union of communes (par. 1).

ARTICLE 60.

PARAGRAPH 1. In case of the assignment of duties connected with the miners' insurance, to a local insurance office according to article 37, paragraph 3, the miners' associations or miners' funds affected must pay an appropriate contribution toward the costs of the local insurance office.

PAR. 2. The superior insurance office determines the contributions; an appeal against the determination to the highest administrative authority is permissible.

III. SUPERIOR INSURANCE OFFICES.

1. Establishment.

ARTICLE 61.

PARAGRAPH 1. According to the provisions of this law, the superior insurance offices take cognizance of the business of the imperial insurance as higher judicial, decision, and supervisory authorities.

PAR. 2. The State government may assign to them also other duties connected with the miners' insurance.

ARTICLE 62.

PARAGRAPH 1. The superior insurance office is as a rule established for the district of a higher administrative authority.

PAR. 2. The highest administrative authority may delimit the district differently.

PAR. 3. The State governments of several federal States may establish for their territories or parts thereof a joint superior insurance office.

ARTICLE 63.

PARAGRAPH 1. The highest administrative authority may also establish superior insurance officers for—

1. The administration of establishments and service establishments of the Empire or of the federal States which have their own establishment sick funds;
2. Groups of establishments, for whose employés special institutes (*Sonderanstalten*) provide the invalidity and survivors' insurance;
3. Groups of establishments belonging to miners' associations or miners' sick funds.

PAR. 2. For these special superior insurance offices article 62, paragraph 1, and articles 72, 73, and 80 are not applicable. In other respects the provisions relating to superior insurance offices are applicable to them as far as articles 70, 75, and 81 do not prescribe otherwise.

PAR. 3. The highest administrative authority specifies their competence.

ARTICLE 64.

The highest administrative authority may attach the superior insurance offices to superior imperial or State authorities, or may establish them as independent State authorities.

ARTICLE 65.

PARAGRAPH 1. The highest administrative authority specifies the seat of the superior insurance office.

PAR. 2. For a joint superior insurance office the approval of the State governments affected is required.

ARTICLE 66.

The highest administrative authority communicates to the Imperial Insurance Office for publication the seat and district of all superior insurance offices of their territory within one month from their establishment or change.

ARTICLE 67.

If a superior insurance office is attached to a superior imperial or State authority, the director of the latter is at the same time the president of both. A director of the superior insurance office is appointed as his permanent substitute.

2. Composition.

ARTICLE 68.

The superior insurance office is composed of members and of associates.

ARTICLE 69.

PARAGRAPH 1. The superior insurance office shall appoint, at the same time, in addition to the director at least one member as his substitute.

PAR. 2. At least one substitute shall be appointed for each member.

PAR. 3. The members shall be appointed to the principal position or for the term of the principal position from the number of public officials, the director either for life or according to State law, without recall.

ARTICLE 70.

The highest administrative authorities may specify that other official duties shall be assigned to the director, and that the other members, as well as in the case of special superior insurance offices the director, exercise their office as a subsidiary occupation.

ARTICLE 71.

PARAGRAPH 1. The associates shall be elected one-half from the employers and one-half from the insured persons.

PAR. 2. The number of associates is 40; it may be increased or decreased by the highest administrative authority.

PAR. 3. An associate may not at the same time be a nonpermanent member of the Imperial Insurance Office or of a State insurance office.

ARTICLE 72.

PARAGRAPH 1. The industrial accident associations, the navigation accident association, and the executive authorities specify for each superior insurance office an accident association or executive authority to represent their right to vote (art. 73, par. 1). If there is no agreement, the Imperial Insurance Office shall specify the particulars.

PAR. 2. The names of these representative associations and representative executive authorities are to be communicated to the Imperial Insurance Office and to be published by it.

ARTICLE 73.

PARAGRAPH 1. The associates from the employers shall be elected one-half by the employer members in the committee of the competent insurance institute and one-half by the directorates of the competent agricultural associations and of the representative accident association; if representative executive authorities have been specified, they shall vote in place of the directorate of the representative association. The Imperial Insurance Office decrees the election regulations.

PAR. 2. The associates from the insured persons are elected by the representatives of the insured persons of the local insurance offices of the district of the superior insurance office according to the principle of proportional representation. The number of votes of the rep-

resentatives of the insured persons is determined by the superior insurance office according to the number of sick-fund members of the district of their local insurance office (art. 43). The highest administrative authority decrees the election regulations.

ARTICLE 74.

PARAGRAPH 1. The voting is done by written ballot. The director of the superior insurance office conducts the election.

PAR. 2. Election disputes are decided finally by the superior insurance office (decision chamber).

ARTICLE 75.

PARAGRAPH 1. The employer associates for a special superior insurance office are elected by the employer members of the directorate either of the establishment sick fund, or of the special institute, or of the miners' associations or miners' funds; if there are no representatives of the employers in a directorate, the voting is done by the representatives of employers who belong to another administrative body.

PAR. 2. The associates from the insured persons are elected according to the principles of proportional representation by the committee members of insured persons, either of the establishment sick fund or the special institute, or by the elders of the miners' fund; as far as miners' associations or miners' funds are admitted as special institutes or belong to a special institute, the voting is also done by the elders of the miners' funds; if a special institute has no committee, the voting is done by the representatives of the insured who belong to another administrative body.

PAR. 3. The highest administrative authority specifies the particulars.

ARTICLE 76.

Articles 46 to 48, article 49, paragraphs 2 and 3, and articles 50 to 54 are correspondingly applicable for the election, rights, and duties of associates and their substitutes. Appeals (art. 51, par. 3, art. 52, par. 2, and art. 53, par. 3) are to be directed to the highest administrative authority; fines (art. 51, par. 1, and art. 53, par. 2) may be imposed not to exceed 300 marks [$71.40].

3. Chambers (Kammern).

ARTICLE 77.

PARAGRAPH 1. Each superior insurance office creates one or more judgment chambers (*Spruchkammern*) for matters assigned by this law to judgment procedure (*Spruchverfahren*).

PAR. 2. The judgment chamber is composed of a member of the superior office, as president, and of two associates of the employers and of two of the insured persons.

ARTICLE 78.

PARAGRAPH 1. Each superior insurance office creates one or more decision chambers (*Beschlusskammern*) for matters which this law assigns to the decision procedure (*Beschlussverfahren*).

PAR. 2. The decision chamber is composed of the president of the superior insurance office, of a second member, and of two associates. Of these, the associates of the employers and of the insured persons elect one each, and also at least one substitute each, from their midst, and the election shall be according to a simple majority of votes, for a term of four years.

PAR. 3. In case of a tie, the president casts the deciding vote.

4. Supervision—Costs.

ARTICLE 79.

PARAGRAPH 1. The highest administrative authority exercises the supervision over the superior insurance office.

PAR. 2 . They assign to it the necessary employés and provide its business rooms.

PAR. 3. The bureau, clerical, and subordinate employes have the rights and duties of imperial or State officials, except when employed as substitutes, or temporarily, or in preparatory work, the State government determines the particulars herewith.

PAR. 4. The president obligates them to the conscientious discharge of their official duties, so far as they are not already obligated by an oath of office.

ARTICLE 80.

PARAGRAPH 1. The federal State defrays all costs of the superior insurance office.

PAR. 2. The insurance carriers have to pay a lump sum for each case under adjudication in which they are concerned; if in a case costs are to be defrayed according to paragraph 4, the lump sum is correspondingly reduced.

PAR. 3. The lump sums shall be determined by the Federal Council uniformly for the Empire for each branch of the workmen's insurance, and shall be revised every four years. They shall cover half of the costs of the superior insurance offices without the allowances of members and their substitutes and without the fees (art. 1803).

PAR. 4. The fees according to article 1803, the fines according to articles 76 and 1679, as well as the specially imposed costs of procedure (art. 1802), and the contributions according to article 82, accrue to the treasury of the federal State.

ARTICLE 81.

PARAGRAPH 1. All costs of special superior insurance offices created for establishments of the Empire or of a State are to be defrayed by the administrations of the establishments. The receipts (art. 80, par. 4) accrue to the latter.

PAR. 2. All costs of the other special superior insurance offices are to be refunded after deduction of the receipts (art. 80, par. 4) by the insurance carriers participating to the federal State.

ARTICLE 82.

If, according to article 61, paragraph 2, matters of the miners' insurance are assigned to a superior insurance office, then the miners' associations (*Knappschaftsvereine*) and miners' funds (*Knappschaftskassen*) affected to have to make appropriate contributions to its costs. The highest administrative authority determines the contributions.

IV. IMPERIAL INSURANCE OFFICE—STATE INSURANCE OFFICES.

1. Jurisdiction—Seat.

ARTICLE 83.

PARAGRAPH I. The Imperial Insurance Office, according to the provisions of this law, takes cognizance of the affairs of the imperial insurance as the highest authority on judicial, decision, and supervisory matters.

PAR. 2. It has its seat in Berlin.

ARTICLE 84.

Its decisions are final as far as the law does not provide otherwise.

2. Composition.

ARTICLE 85.

The Imperial Insurance Office is composed of permanent and nonpermanent members.

ARTICLE 86.

PARAGRAPH 1. The Emperor appoints the president and the other permanent members for life on proposal of the Federal Council.

PAR. 2. From the permanent members the Emperor appoints the directors and the presidents of senates.

PAR. 3. The imperial chancellor appoints the other members.

ARTICLE 87.

PARAGRAPH 1. The Imperial Insurance Office has 32 nonpermanent members. The Federal Council elects 8 of these, of which at least 6 must be from its membership; 12 are elected as representatives of the employers and 12 as representatives of the insured persons.

PAR. 2. According to need, substitutes shall be elected for the employers and the insured persons in the same manner. If members retire before the expiration of their term of office, the substitutes take their place in the order in which they were elected.

ARTICLE 88.

PARAGRAPH 1. The employers and the insured persons are elected separately by written ballot under the direction of the Imperial Insurance Office, the insured persons according to the principles of proportional representation, the employers according to a simple majority of votes, in which a tie shall be decided by lot.

PAR. 2. The proportion of votes of each electing body is determined by the Federal Council according to the number of their insured persons. It may specify the manner of electing by districts.

PAR. 3. The Imperial Insurance Office publishes the result of the election.

ARTICLE 89.

Of the 12 employers, 6 are elected by the employer members belonging to the committee of insurance institutes and of the corresponding representations of the special institutes, as follows:

Four from the field of the industrial accident insurance;

Two from that of the agricultural accident insurance.

ARTICLE 90.

The other 6 employers shall be elected by the directorate of the accident association and by the executive authorities, and, furthermore, from the field of each of them, as follows:

Four from the industrial associations and executive authorities, one of whom shall be from the navigation accident association;

Two from the agricultural accident associations and executive authorities.

ARTICLE 91.

The 12 insured persons shall be elected by the insured persons who are associates of the superior insurance offices, as follows:

Eight from the field of the industrial and navigation accident insurance, of whom one shall be from the field of the navigation accident insurance;

Four from the field of the agricultural accident insurance.

ARTICLE 92.

Only men are eligible who are not excluded according to article 12.

ARTICLE 93.

PARAGRAPH 1. The following are eligible as employers: The members of accident associations who are entitled to vote, their legal

representatives, the managers of their establishments with power of attorney, and the officials of establishments for which an executive authority has been appointed.

PAR. 2. Moreover, there are eligible, according to article 89, employers who are members of the committee of an insurance institute or of the corresponding representation of a special institute.

ARTICLE 94.

Eligible as insured persons are persons insured against accident according to this law; furthermore, insured persons who are members of the committee of an insurance institute, even if they are not insured against accident; and for the field of the navigation accident insurance, navigators of practical experience who are not shipowners, managers of shipowning establishments, or authorized representatives thereof.

ARTICLE 95.

Article 49, paragraph 2, and articles 50 to 52, article 53, paragraphs 2 and 3, are correspondingly applicable; but the Imperial Insurance Office (decision senate), however, is competent for punishment (art. 51, par. 1, and art. 53, par. 2) and removal from office (art. 52). Fines (art. 51, par. 1, and art. 53, par. 2) may be imposed not to exceed 500 marks ($119).

ARTICLE 96.

PARAGRAPH 1. The nonpermanent members receive a yearly allowance for their participation in the work and sessions of the Imperial Insurance Office, and, in so far as they reside outside of Berlin, refund of traveling expenses coming and returning, according to the rates in force for advisory councilors (*Vortragende Rate*) of the highest imperial authorities.

PAR. 2. Substitutes receive the same refund of traveling expenses and a per diem allowance of 18 marks ($4.28).

ARTICLE 97.

The imperial chancellor obligates the nonpermanent members elected by the Federal Council, the president of the Imperial Insurance Office obligates the other members and their substitutes, before they enter on their duties, to the faithful discharge of their duties.

3. Senates.

ARTICLE 98.

PARAGRAPH 1. The Imperial Insurance Office forms judgment senates (*Spruchsenate*) for matters which this law assigns to judgment procedure.

PAR. 2. The judgment senate is composed of a president, a nonpermanent member elected by the Federal Council, a permanent member, two officials of the judiciary called in for this purpose, an employer, and an insured person. A permanent member may take the place of the member elected by the Federal Council.

ARTICLE 99.

PARAGRAPH 1. The president, a director, or a president of the senate presides in the judgment senate. The imperial chancellor may intrust another permanent member with the chairmanship.

PAR. 2. The imperial chancellor summons the officials of the judiciary to the judgment senate.

ARTICLE 100.

PARAGRAPH 1. The Imperial Insurance Office creates decision senates (*Beschlusssenate*) for matters which this law assigns to the decision procedure.

PAR. 2. The decision senate consists of the president, or of one director, or of a senate president as presiding officer, and of the following: A nonpermanent member elected by the Federal Council, a permanent member, an employer, and an insured person. A permanent member may take the place of the member elected by the Federal Council.

ARTICLE 101.

PARAGRAPH 1. The Imperial Insurance Office creates the great senate (*Grosse Senat*) for the duties which this law assigns to that body.

PAR. 2. With reservation of enlargement according to article 1718, paragraph 2, the great senate consists of the president or his representative, two members elected by the Federal Council, two permanent members, two officials of the judiciary, two employers, and two insured persons.

ARTICLE 102.

PARAGRAPH 1. If all the members of the Imperial Insurance Office elected by the Federal Council are prevented from serving, permanent members shall be called in to take their place.

PAR. 2. The other members of the great senate and at least two substitutes for each shall be designated in advance for one fiscal year according to detailed provision of imperial decree (art. 35, par. 2). Of these there shall be designated two permanent members and two officials of the judiciary and their substitutes for each of the following subjects:

Sickness insurance;
Accident insurance;
Invalidity, and survivors' insurance.

4. Accounting bureau—Costs.

ARTICLE 103.

PARAGRAPH 1. An accounting bureau (*Rechnungstelle*) is to be established in the Imperial Insurance Office.

PAR. 2. It executes the work assigned to it by this law. It supports the Imperial Insurance Office in its accounting and technical insurance work. The Imperial Insurance Office specifies the nature of the information to be furnished to it for this purpose by the insurance carriers.

ARTICLE 104.

PARAGRAPH 1. The Empire bears the costs of the Imperial Insurance Office, inclusive of the costs of procedure.

PAR. 2. The fines according to articles 95 and 1698, paragraph 1, article 1701, paragraph 1, as also the specifically imposed costs of procedure (art. 1802), accrue to the imperial treasury.

5. State insurance offices.

ARTICLE 105.

PARAGRAPH 1. A State insurance office which was established before this law, for the territory of a federal State, may remain in existence as long as there are under its jurisdiction at least four superior insurance offices.

PAR. 2. As far as this law so prescribes, the State insurance office takes the place of the Imperial Insurance Office for this territory.

PAR. 3. The costs of the State insurance office are borne by the federal State.

ARTICLE 106.

PARAGRAPH 1. The State insurance office consists of permanent and nonpermanent members.

PAR. 2. The State government appoints the permanent members. They are to be appointed either for life or according to the State law, without recall as far as their appointment is for the actual office.

PAR. 3. At least eight representatives of the employers and eight representatives of the insured persons shall be elected under the direction of the State insurance office, by written ballot, as nonpermanent members. One-half of them shall come from the agricultural and the other half from the industrial accident insurance.

ARTICLE 107.

PARAGRAPH 1. Article 87, paragraph 2, and articles 88 to 97, are correspondingly applicable for the election, rights, and duties of the members, in so far as article 106, paragraph 3, or the following pages do not provide otherwise.

PAR. 2. The highest administrative authority takes the place of the Federal Council and of the imperial chancellor.

PAR. 3. The employers are elected by—

1. The employer members in the committees of the insurance institutes and in the corresponding representative bodies of special institutes, created for or embracing the territory of the federal State.
2. The directorates of the accident associations and the executive authorities embracing establishments with their seat in the territory of the federal State. Where this territory is identical with the district of one or more sections, the section directorates elect in place of the association directorates.

PAR. 4. The insured persons are elected by the insured persons who are associates of those superior insurance offices which are created for or embrace the territory of the federal State.

PAR. 5. The State government determines the proportion of votes according to the number of insured persons.

ARTICLE 108.

PARAGRAPH 1. The removal of a nonpermanent member is decided upon by the State insurance office.

PAR. 2. Articles 98 to 100, and 104, paragraph 2, are correspondingly applicable for the State insurance office; the highest administrative authority takes the place of the Federal Council and of the imperial chancellor; the treasury of the federal State takes the place of the imperial treasury.

ARTICLE 109.

PARAGRAPH 1. As far as this law does not regulate the business management and the procedure of the State insurance office, it is done by the State government.

PAR. 2. The State government specifies the allowances to nonpermanent members.

SECTION FOUR.—OTHER GENERAL PROVISIONS.

I. AUTHORITIES.

ARTICLE 110.

The highest administrative authority may transfer to other authorities some of the duties and rights assigned to them by this law.

ARTICLE 111.

PARAGRAPH 1. The highest administrative authorities specifies—

1. Which State authority and which authorities and representative bodies of unions of communes and of communes are competent for the duties which this law assigns to the superior and inferior administrative authorities, to the local police

authorities, to the communal authorities, to the unions of communes, and to the communes, as well as their authorities and representatives.

2. Which unions are to be considered as unions of communes; a single commune is only then considered a union of communes in the meaning of the law if so specified by the highest administrative authority.
3. Whether and which local business of the imperial insurance shall be transacted by communal authorities in place of the local insurance offices.

PAR. 2. The specifications shall be published in the Reichsanzeiger.

ARTICLE 112.

If at least half the members of the administrative bodies are composed of representatives of the insurance elected by secret ballot, the highest administrative authority may assign duties of the local insurance office to administrative bodies of—

Miners' associations or of miners' funds.

Establishment of sick funds for establishment administrations and service establishments of the Empire and of the federal States.

Special institutes of the Empire and federal States.

Judicial duties may not be transferred.

ARTICLE 113.

PARAGRAPH 1. If an insurance authority, an insurance carrier, or an establishment embraces territories of several federal States, the State government or the highest administrative authority of the federal State of its seat, takes cognizance of the powers which this law assigns to the State government or to the highest administrative authority as far as it is not otherwise prescribed.

PAR. 2. If the State governments or the highest administrative authorities do not agree, where this law prescribes their co-operation, the Federal Council decides between the State governments, and the imperial chancellor between the administrative authorities. The same is applicable if they do not agree as to their competency, or in case of paragraph 1, as to the seat.

PAR. 3. The imperial chancellor exercises the rights of the highest administrative authority for the establishments of the Empire and for their special insurance authorities and for insurance carriers.

ARTICLE 114.

The provision of this law are also applicable for the independent manors and marches (*ausmärkische Bezirke*). The lord of the manor or the march authorities (*Gemarkungsberechtigte*) exercise there the rights and duties in place of the communes.

II. LEGAL ASSISTANCE.

ARTICLE 115.

PARAGRAPH 1. The public authorities are required to comply with all requests pertaining to the execution of this law coming to them from insurance and other public authorities and from administrative bodies of the insurance carriers, especially to execute all decisions which may be carried out.

PAR. 2. Supervisory transactions as described in article 347, paragraph 4, article 404, paragraph 3, and articles 888, 1465, and 1470, may be demanded only under the conditions named therein.

ARTICLE 116.

The administrative bodies of the insurance carriers have to give this legal assistance to each other as well as to the authorities and poor-law unions.

ARTICLE 117.

Per diem allowances, traveling expenses, fees for witnesses and experts, and all other cash expenditures arising out of legal assistance, must be paid by the insurance carriers as their own administrative costs.

III. BENEFITS.

ARTICLE 118.

Benefits granted according to this law or to supplementary State laws, and relief given in their place through the transfer of the claims, are not public charities.

ARTICLE 119.

PARAGRAPH 1. The claims of the persons entitled thereto may, with reservation of article 1325, only be legally transferred, assigned, or attached—

1. To cover an advance on his claims received by the person entitled to benefits either from the employer or from an administrative body of the insurance carrier or one of its members, before the allowance of the benefits.
2. To cover claims designated in article 850, paragraph 4, of the Code of Civil Procedure (*Zivilprozessordnung*).
3. To cover claims from communes, poor-law unions, and the employers and funds representing them, entitled to reimbursement according to article 1531; transfer, assignment, and attachment are only permissible up to the amount of legal claims for reimbursement.
4. To cover arrears of contributions which have been overdue not longer than three months.

PAR. 2. As an exceptional measure, the person entitled thereto may also transfer the claim in other cases, wholly or partly, to other persons, with the approval of the local insurance office.

ARTICLE 120.

PARAGRAPH 1. To inebriates not under guardianship, benefits in kind may be granted wholly or partly. This must be done on demand of a poor law union affected or of the communal authority of the place of residence of the inebriate. In the case of inebriates under guardianship, the granting of the benefits in kind is only permissible with the approval of the guardian. On his demand it must be done.

PAR. 2. The commune where the claimant resides grants the benefits in kind. The claim to cash benefits is transferred to the commune up to the value of the payments in kind received. Benefits in kind may also be granted by placing him in a sanatorium for inebriates or with approval of the commune, through the intervention of an institution for inebriates.

PAR. 3. A balance of cash benefits is to be assigned to the husband or wife of the person entitled to compensation, his children or his parents, or, in case he has none, to the commune to be used for him.

ARTICLE 121.

PARAGRAPH 1. The local insurance office (decision committee) decrees the order after a hearing of the communal authority and of the person entitled to benefits and communicates it in writing to them and to the insurance carrier. It decides in disputes between the communal authority and the person entitled to benefits.

PAR. 2. On appeal the superior insurance office decides finally.

PAR. 3. When the case relates to cash benefits of the accident or of the invalidity and survivors' insurance the insurance carrier notifies the Post Office Department if the claim to cash benefits has been finally transferred to the commune.

IV. MEDICAL TREATMENT.

ARTICLE 122.

PARAGRAPH 1. The medical treatment in the meaning of this law shall be given by registered physicians, and for dental diseases by registered dental surgeons (*approbierte Zahnärzte*) (art. 29 of the Industrial Code). It includes assistance of other persons as barber surgeons, midwives, medical helpers, medical attendants, nurses, masseurs, etc., as also dental assistants (*Zahntechniker*), but only in the case of an order by the physician (or dental surgeon) or in urgent cases, if no registered physician (or dental surgeon) is available.

PAR. 2. The highest administrative authority may specify how far otherwise assistants may give independent treatment within the limits of their powers as authorized by the State.

ARTICLE 123.

In the case of dental diseases, but excluding diseases of the mouth or gums, treatment may be given with the approval of the insured person by dental assistants in addition to dental surgeons. The highest administrative authority specifies how far dental assistants may give otherwise independent treatment in case of such dental diseases. This authority may specify how far this may also be done by medical helpers and medical attendants. It specifies further who is to be considered a dental assistant in the meaning of this law.

V. TIME LIMITS.

ARTICLE 124.

PARAGRAPH 1. If the beginning of a time limit is determined by an event or point of time, the time limit begins with the day following the event or the point of time.

PAR. 2. If a time limit is extended, the new time limit begins with the expiration of the old one.

ARTICLE 125.

PARAGRAPH 1. A time limit determined by days ends with the expiration of its last day, a time limit determined by weeks or months with the expiration of that day of the last week or the last month which corresponds according to name or number to the day on which the event or the point of time falls.

PAR. 2. In case the corresponding day is missing in the last month, the time limit ends with the month.

ARTICLE 126.

In case it is not necessary for a period of months or years to be continuous, then the month will be reckoned as having 30 days and the year as having 365 days.

ARTICLE 127.

PARAGRAPH 1. In case the day set for the statement of intention or for a payment or for the expiration of a time limit falls on a Sunday or a general holiday recognized by the State in the place of declaration or of payment, then the succeeding working day takes its place.

PAR. 2. This provision is not applicable for the duration of benefits to which an insurance carrier is bound.

ARTICLE 128.

PARAGRAPH 1. So far as this law does not provide otherwise, legal measures are to be inaugurated within one month after delivery of the contested decision.

PAR. 2. For seamen sojourning outside of Europe this time limit is determined by the office which decreed the contested decision; it must be at least three months from the date of delivery.

ARTICLE 129.

PARAGRAPH 1. So far as this law does not provide otherwise, legal measures shall be inaugurated at the office which has to make the decision.

PAR. 2. The time limit is considered as observed when the legal measures have been received in time by another German authority or by an administrative body of the insurance carrier, or in case of the navigation accident insurance also by a German marine office (*Seemannsamt*) in a foreign country.

PAR. 3. The legal documents are to be delivered immediately to the competent authority.

ARTICLE 130.

Legal measures effect a stay only in cases where the law so provides.

ARTICLE 131.

PARAGRAPH 1. In case an interested person has been kept by natural events or by other unavoidable accidents from observing the legal time limit of procedure, he shall on application be granted reinstatement to his previous status.

PAR. 2. On application reinstatement will also be granted if the document received too late has been mailed at least three days before the expiration of the time limit.

ARTICLE 132.

PARAGRAPH 1. In the case of article 131, paragraph 1, application for reinstatement must be made within a period, the duration of which shall be determined by the duration of the period lapsed. The period begins with the day on which the preventing cause was removed.

PAR. 2. In cases of article 131, paragraph 2, application for reinstatement shall be made within one month. The period begins with the day on which the interested party learns that he has not observed the time limit.

PAR. 3. No application for reinstatement may be made after the expiration of two years from the end of the time limit.

ARTICLE 133.

PARAGRAPH 1. The appliation for reinstatement shall—

1. State the facts forming the basis for the reinstatement;
2. Indicate the means to make these facts evident;
3. Make good the lapsed transaction if it has not already been done.

PAR. 2. The application is made to the authority where the time limit has lapsed; article 129, paragraphs 2 and 3, are correspondingly applicable. The decision rests with the authority which decides upon the action which has later been made good.

ARTICLE 134.

PARAGRAPH 1. The procedure concerning the application shall be combined with that concerning the action made good later, but the application may first of all be discussed and decided alone.

PAR. 2. For the decision concerning the admissibility of the application and its contesting, the same provisions are applicable as for the action made good later.

VI. NOTIFICATIONS.

ARTICLE 135.

PARAGRAPH 1. Notifications which start a time limit may be made by registered letter.

PAR. 2. The postal receipt justifies after two years from its making out, the assumption that delivery has been made within the regular time limit after the mailing.

ARTICLE 136.

PARAGRAPH 1. Persons not living in Germany must upon demand designate a person authorized to receive notifications.

PAR. 2. If the abode is unknown and a person authorized to receive notifications has not been designated within the time limit set, then an announcement in the business rooms of the authority or of the proper office may take the place of the notification; the time limit must not be less than one month.

VII. FEES AND STAMP TAXES.

ARTICLE 137.

All proceedings and documents necessary to the insurance carriers and insurance authorities to establish and transact the legal relations between the insurance carriers on the one hand and the employers or insured persons or their survivors on the other, are exempt from fees and stamp taxes, as far as this law does not provide otherwise.

ARTICLE 138.

The same is applicable for proceedings out of court and documents of this kind, and for such nonofficial powers of attorney and official certificates which, according to this law, become necessary for identification and authentication.

VIII. PROHIBITIONS AND PENALTIES.

ARTICLE 139.

PARAGRAPH 1. Employers and their employees, as well as insurance carriers, are prohibited from restricting insured persons in the acceptance or discharge of an honorary office of the imperial insurance, or from injuring them on account of the acceptance or manner of discharge of such an honorary office. The employers and their employees are further prohibited from preventing either wholly or partly, either through agreements or working regulations, the application of the provisions of this law to the injury of the insured persons.

PAR. 2. Agreements conflicting herewith are void.

ARTICLE 140.

Employers or their employees infringing article 139, paragraph 1, shall be punished by fines not to exceed 300 marks [$71.40] or by imprisonment as far as they are not liable to more severe penalty in accordance with other legal provisions.

ARTICLE 141.

PARAGRAPH 1. The persons named below, if they disclose without authority what they have learned while performing their official duty about diseases or other invalidity of insured persons, or the causes thereof, shall be punished by fines not to exceed 1,500 marks [$357] or by imprisonment for not more than three months; prosecution shall be instituted only on application of the insured person or of the supervisory authority; these persons are—

A member of an administrative body or an employee of an insurance carrier;

A member or an employee of an insurance authority;

A representative or associate in an insurance authority.

PAR. 2. Other persons for whom this law provides a benefit from an insurance carrier are considered as insured persons.

ARTICLE 142.

PARAGRAPH 1. The following persons, if they disclose business or trade secrets which they have learned while performing their official duties, shall be punished with fines not to exceed 1,500 marks [$357], or with confinement in jail:

Persons designated in article 141, paragraph 1;

Special experts according to article 880;

Members of committees for the decision of appeals made under article 1000, paragraph 2, and of protests made under article 1023, paragraph 1.

PAR. 2. If this is done to injure the undertaker, or to procure for themselves or other persons pecuniary advantages, they shall be punished by imprisonment. In addition to the prison sentence they may be punished with the loss of their civic rights and fines not to exceed 3,000 marks [$714].

PAR. 3. Prosecution in the case mentioned in paragraph 1 shall be instituted only on application of the undertaker.

ARTICLE 143.

The persons designated in article 142, paragraph 1, shall be punished with imprisonment if they make use of business or trade secrets to the disadvantage of the undertaker or to procure for themselves or other persons a pecuniary advantage. In addition to imprisonment they may be sentenced to the loss of their civic rights and fined not to exceed 3,000 marks [$714].

ARTICLE 144.

In cases mentioned in article 142, paragraph 2, or article 143, if there are mitigating circumstances, the punishment shall be a fine not to exceed 3,000 marks [$714].

ARTICLE 145.

In the case of officials subject to the rules of service of a State or communal authority, the provisions applicable for them take the place of articles 141 to 144.

ARTICLE 146.

PARAGRAPH 1. With reservation of article 59, paragraph 3, article 80, paragraph 4, article 104, paragraph 2, article 108, paragraph 2, and articles 914, 1045, and 1224, fines accrue to the treasury of the insurance carrier; those imposed by a court only then when this law so provides.

PAR. 2. Fines, except such as are imposed by a court, shall be collected in the same manner as arrears.

ARTICLE 147.

Contraventions of this law for which the courts are not competent, expire by limitation in three months, if not punishable with a fine of more than 300 marks [$71.40], otherwise in one year. The period of limitation begins with the day on which the act was committed. It is interrupted by any action directed against the violator by the bodies competent to impose a penalty. With the interruption begins a new period of limitation; it ends at the latest with the expiration of 10 years from the day on which the contravention took place.

ARTICLE 148.

Punishments imposed finally and not decreed by the courts expire by limitation in two years. The period of limitation begins with the day on which the decision became final. It is interrupted by any action directed to the exception of the punishment by the bodies

charged with the execution. With the interruption begins a new period of limitation; it ends at the latest with the expiration of four years from the day on which the decision became final.

IX. LOCAL WAGE RATE.

ARTICLE 149.

PARAGRAPH 1. As the local wage rate that rate shall be used which is the daily wage customarily paid in the locality to ordinary day laborers.

PAR. 2. The superior insurance office determines and publishes the local wage rate. The directorates of the insurance institutes affected shall be previously given a hearing; the local insurance office shall express an opinion after having given a hearing to the communal authorities and to the directorates of the sick funds affected.

ARTICLE 150.

PARAGRAPH 1. The local wage rate shall be determined separately for men and for women, for insured persons under 16 years, for those between 16 and 21 years, and for those over 21 years.

PAR. 2. The insured persons under 16 years (juveniles) may be classified as young persons of 14 years and over and children of less than 14 years; apprentices are considered as young persons.

PAR. 3. In other respects the local wage rate as determined uniformly according to the average for the whole district of each local insurance office. Exceptions are permissible when there are considerable differences in the amount of wages in different localities or between city and country.

ARTICLE 151.

PARAGRAPH 1. The local wages are determined at the same time for the whole Empire, at first until December 31, 1914, afterwards always for four years. Changes in the interim shall only be in force until the next general determination.

PAR. 2. All changes shall come into use only two months after their publication.

ARTICLE 152.

Before the beginning of each four-year term the imperial chancellor shall publish in the Zentralblatt für das Deutsche Reich a list of all determinations in force, and also at least annually a list of changes made in the meantime.

X. PLACE OF EMPLOYMENT.

ARTICLE 153.

PARAGRAPH 1. The place of employment is the place in which the employment actually takes place.

PAR. 2. For insured persons who are employed at a definite work place (establishment, place of service), this shall be considered also as the place of employment, while they are performing elsewhere pieces of work of short duration for the employer.

PAR. 3. The same is applicable to insured persons who are employed at various times from a definite place of work on single pieces of work in districts of various local or rural sick funds.

PAR. 4. It is further applicable to insured persons who are only employed on single pieces of work outside of the definite work place, if both the latter and their place of employment are situated in the district of the same local insurance office.

ARTICLE 154.

For employed persons for whom no definite work place is provided, the seat of the establishment is considered as the place of employment.

ARTICLE 155.

For insured persons who have been engaged by the administration of an establishment for a varied employment to be carried on in different communes, that commune where the immediate management of the work has its seat is to be considered as the place of employment. After a hearing of the interested administrations and communes or unions of communes the superior insurance office can specify otherwise in this regard.

ARTICLE 156.

For insured persons employed at an agricultural occupation, changeable in various communes, the seat of the establishment (arts. 963 and 964) is considered as the place of occupation.

XI. LEGISLATION OF FOREIGN COUNTRIES.

ARTICLE 157.

PARAGRAPH 1. So far as other countries have put into operation a system of relief corresponding to the imperial insurance, the imperial chancellor, with the approval of the Federal Council and with due regard to reciprocity, may make agreements as to what extent the relief shall be regulated according to the imperial insurance or the relief provisions of the other country for establishments overlapping from the territory of one country into that of another, as well as for insured persons temporarily occupied in the territory of the other country.

PAR. 2. Likewise if there is a reciprocal consideration, the insurance of citizens of a foreign country may be regulated otherwise than according to the provisions of this law, and the operation of the relief of the one country be facilitated in the territory of the other. In these agreements the obligation of the employers to pay contributions according to this law must not be reduced or done away with. The Reichstag must be notified of these agreements.

PAR. 3. These provisions are correspondingly applicable in the case of a relief which takes the place of the imperial insurance.

ARTICLE 158.

With the approval of the Federal Council, the imperial chancellor can decree that a right to reimbursement may be exercised against subjects of a foreign State or their legal successors.

XII. GENERAL DEFINITIONS.

1. *Employments subject to insurance.*

ARTICLE 159.

With reservation of the provisions of articles 551, 928, and 1062, the employment of husband or wife by the other does not establish any insurance obligation.

2. *Earnings.*

ARTICLE 160.

PARAGRAPH 1. In the meaning of this law, earnings consist not only of salaries or wages, but also of participation in profits receipts in kind, or other receipts which the insured person receives from the employer or a third party in place of salary or wages or in addition to them, even if it is only a matter of custom.

PAR. 2. The value of receipts in kind shall be reckoned according to local prices, which are to be determined by the local insurance office.

3. *Agriculture.*

ARTICLE 161.

In so far as there are no different provisions, the provisions of this law relating to agricultural establishments, agricultural employers, agricultural undertakers, and agricultural employees, are also applicable to forestry establishments, forestry employers, forestry undertakers, and forestry employees.

4. *Persons engaged in home-working industries.*

ARTICLE 162.

PARAGRAPH 1. In the meaning of this law, those independent workmen who manufacture or prepare industrial products in their own workrooms on the order and for the account of others are considered as persons engaged in home-working industries.

PAR. 2. They are also considered as such if they themselves procure the raw or auxiliary materials, as well as for the time during which they work temporarily for their own account.

5. *German seagoing vessels.*

ARTICLE 163.

Every vessel sailing under the German flag, and used exclusively or preferably (*vorzugsweise*) for maritime navigation, is considered as a German seagoing vessel. Merely because natives of protectorates display the flag of the Empire (art. 10 of the protectorate law, Reichs-Gezetzblatt, 1900, p. 812), the ship does not become a German seagoing vessel in the meaning of this law.

6. *Fiscal year.*

ARTICLE 164.

The fiscal year shall be the calendar year.

BOOK TWO—SICKNESS INSURANCE.

SECTION ONE—SCOPE OF THE INSURANCE.

I. COMPULSORY INSURANCE.

ARTICLE 165.

PARAGRAPH 1. The following are insured against sickness:

1. Workmen, helpers, journeymen, apprentices, and servants.
2. Establishment officials, foremen, and other employees in similar higher positions, if such employment is for all of them their principal occupation.
3. Clerks and apprentices in commercial establishments, and clerks and apprentices in pharmacies.
4. Members of the stage and of orchestras, without regard to the artistic value of their services.
5. Teachers and tutors.
6. Persons engaged in home-working industries.
7. The crews of German seagoing vessels, provided that they are subject neither to articles 59 to 62 of the Navigation Code (Reichs-Gesetzblatt, 1902, p. 175, and 1904, p. 167), nor to articles 553 to 553b of the Commercial Code; also the crews of vessels engaged in inland navigation.

PAR. 2. The prerequisite of insurance for all persons designated in paragraph 1, under Nos. 1 to 5 and No. 7, with the exception of all classes of apprentices, is that they shall be employed for compensation (art. 160), and that for those designated under Nos. 2 to 5 as well as for masters of vessels, that their regular annual earnings in the form of compensation do not exceed 2,500 marks [$595].

ARTICLE 166.

The special provisions of articles 416 to 494 are applicable to the insurance of persons employed in agriculture, as servants, of persons employed temporarily or in itinerant trades, of persons engaged in home industries and their home-working employees, as well as of all classes of apprentices employed without compensation.

ARTICLE 167.

If when this law comes into force, other groups of employees are subject to insurance in a Federal State according to State laws, then the State government may decree that in case of sickness they are insured according to this law, and may determine the particulars thereof.

ARTICLE 168.

The Federal Council determines how far temporary services are exempt from the insurance.

ARTICLE 169.

PARAGRAPH 1. Exempt from the insurance are persons employed in the establishments or in the service of the Empire, of a Federal State, of a union of communes, of a commune, or of an insurance carrier, if there has been guaranteed to them from their employers a claim at least equal to the sick benefits in the amount and duration of the regular benefits of sick funds (art. 179), or for the same period, to salary, retirement pension, part pay or similar receipts equal to one and a half times the amount of the pecuniary sick benefits (art. 182).

PAR. 2. The same is applicable to teachers and tutors of public schools and institutions.

ARTICLE 170.

PARAGRAPH 1. On application of the employer, persons employed in the establishments or in the service of other public unions or public corporations shall be exempted by the highest administrative authorities from the insurance obligation if they have been guaranteed one of the claims designated in article 169 from their employer, or if they are only being trained for their profession.

PAR. 2. The same is applicable for officials and employees of the court, domanial, cameralistic, forest, and similar administrations of the State sovereigns, of the ducal regency of Brunswick, and of the administration of the entailed estates of the prices of Hohenzollern.

ARTICLE 171.

On application of the employer, the highest administrative authority may also specify how far persons employed in establishments or in the service of nonpublic corporations, or as teachers and tutors of nonpublic schools or institutions are exempt from the insurance, if there has been guaranteed to them from their employer one of the claims designated in article 169, or if they are being trained solely for their occupation.

ARTICLE 172.

The following are exempt from the insurance:

1. Officials of the Empire, of the federal States, of the unions of communes, of the communes, and of the insurance carriers, and teachers and tutors in public schools or institutions, as long as they are being trained solely for their occupation;
2. Military persons who carry on during their service, or during their training for a civil employment, one of the occupations designated in article 165, to whom article 169 is to be applied;

3. Persons who are employed in teaching for compensation during their scientific training for their future occupation;
4. Members of ecclesiastical societies, deaconesses, sisters of schools and similar persons, if because of religious or ethical motives they are employed in nursing, education, or other activities of public benefit and do not receive as compensation more than free maintenance.

ARTICLE 173.

Upon his application, a person able to work permanently only to a small extent shall be exempted from the insurance obligation so long as the poor-law union which is liable for relief at the time agrees thereto.

ARTICLE 174.

On application of the employer, the following shall be exempted from the insurance obligation:

1. Apprentices of every kind, so long as they are employed in the establishment of their parents;
2. Persons temporarily employed during unemployment in workmen's colonies or similar benevolent institutions.

ARTICLE 175.

PARAGRAPH 1. The directorate of the fund decides on the application for exemption (arts. 173, 174). The exemption becomes effective from the time of the receipt of the application.

PAR. 2. If the application is refused, the local insurance office on appeal decides finally.

II. VOLUNTARY INSURANCE.

ARTICLE 176.

PARAGRAPH 1. The following persons may join the insurance voluntarily if their total yearly income does not exceed 2,500 marks [$595]:

1. Employees exempt from insurance of the kind designated in article 165, paragraph 1;
2. Members of the family of the employer, engaged in his establishment, without any specific employment relation and without compensation;
3. Industrial and other undertakers of establishments, who regularly employ either no one or at the most two persons subject to insurance.

PAR. 2. The Federal Council specifies how far, under similar assumption, persons exempted from insurance according to article 168 may join the insurance voluntarily.

PAR. 3. The constitution of the sick fund may make the right to join dependent on a certain age limit and on the presentation of a health certificate from a physician. The establishment of an age limit requires the approval of the superior insurance office.

ARTICLE 177.

If when this law becomes effective there are other groups in a federal State which according to State law have the right to join the insurance voluntarily, then this right shall be regulated according to detailed specifications issued by the highest administrative authority.

ARTICLE 178.

The right to voluntary insurance ceases in every case where the regular total yearly income exceeds 4,000 marks [$952].

Section Two—Benefits of the Insurance.

I. General provisions as to benefits.

Article 179.

Paragraph 1. The benefits provided by the insurance consist of the benefits of the sick funds (art. 225) in the form of sickness benefits, maternity benefits, and funeral benefits, as prescribed in this book.

Par. 2. These benefits are considered as the regular benefits of the sick funds, and also even when the constitution makes use of the provisions of articles 188 and 192.

Par. 3. The additional benefits specified by the constitution are also objects of the insurance; they may be granted only so far as this book provides.

Article 180.

Paragraph 1. The cash benefits of the fund shall be computed according to a basic wage. As such basic wage the constitution shall specify the average daily compensation of those classes of insured persons for whom the fund has been established, but not to exceed 5 marks [$1.19] per working day.

Par. 2. The constitution may also determine the average daily compensation according to the various rates of wages of the insured persons by classes up to 6 marks [$1.43].

Par. 3. The determination requires the approval of the superior insurance office (decision chamber).

Par. 4. In place of the average daily compensation the constitution may specify as the basic wage the actual earnings of the individually insured persons up to 6 marks [$1.43] per working day.

Par. 5. For persons who voluntarily join the insurance, for whom no basic wage can be ascertained according to the above, the constitution shall specify the same.

Article 181.

Paragraph 1. In the case of rural sick funds the constitution may specify the local wage rate as the basic wage.

Par. 2. But for establishment officials, foremen, and other persons in similar higher positions, and also for artisans, the basic wage shall be determined according to article 180. In districts without general local sick funds the same is applicable to the insured persons who according to the nature of their employment should belong to such a fund.

Par. 3. In districts without a rural sick fund the constitution of the general local sick fund may specify the local wage rate as the basic wage for the insured persons who according to the nature of their employment should belong to a rural sick fund; in this connection paragraph 2, sentence 1, is correspondingly applicable. The superior insurance office can order the insertion of such a provision.

Par. 4. In the case of insured persons whose basic wage in accordance with the above is specified otherwise than as the regular basic wage of the sick fund, the fund must keep a separate account for their contributions and benefits in so far as the highest administrative authority does not provide otherwise.

II. Sickness benefits.

Article 182.

As sickness benefits (*Krankenhilfe*) shall be granted the following:

1. Sickness care (*Krankenpflege*) from the beginning of the sickness on; it includes medical attendance, and supply of

medicines, eyeglasses, trusses, and other minor therapeutic appliances;

2. Pecuniary sick benefit (*Krankengeld*) in the amount of half the basic wage for each working day, if the sickness incapacitates the insured person for work; it is granted beginning with the fourth day of sickness, but if the disability begins later, then from the day of its beginning.

ARTICLE 183.

PARAGRAPH 1. The sick benefits terminate at the latest with the expiration of the twenty-sixth week from the beginning of the sickness, but if the pecuniary benefit has been received beginning with a later date, then from this later date. If there was a period during the receipt of pecuniary benefit in which only medical care was granted, then for not more than 13 weeks this period shall not be included for the duration of the receipt of pecuniary benefit.

PAR. 2. If the pecuniary benefit has to be paid after the twenty-sixth week from the beginning of the sickness, then with its receipt the claim to medical care terminates.

ARTICLE 184.

PARAGRAPH 1. In place of medical care, the sick fund may grant treatment and maintenance in a hospital (hospital treatment—*Krankenhauspflege*). This requires the consent of the patient if he has a household of his own, or if he is a member of the household of his family.

PAR. 2. In the case of a minor over 16 years of age, his consent is sufficient.

PAR. 3. His consent is not required if—

1. The nature of the sickness demands a treatment or care which is not possible in the family of the patient;
2. The sickness is infectious;
3. The patient has repeatedly acted contrary to the sickness regulations (art. 347) or to the orders of the attending physician;
4. His condition or his conduct make continuous observation necessary.

PAR. 4. In the cases mentioned in paragraph 3, Nos. 1, 2, and 4, the sick funds shall, if possible, grant hospital treatment.

PAR. 5 Whenever several suitable hospitals are available which are willing to undertake the hospital treatment on the same conditions, the sick fund shall, under reservation of article 371, leave the choice to the beneficiary.

ARTICLE 185.

PARAGRAPH 1. With the consent of the insured person, the sick fund may grant care and attendance by nurses, nursing sisters, or other attendants, particularly in the cases where the admission of the patient to a hospital seems necessary, but can not be effected, or when there is an important reason for leaving the patient in his household or with his family.

PAR. 2. For this purpose the constitution may permit a deduction up to one-fourth of the pecuniary benefit.

ARTICLE 186.

Whenever hospital care has been granted to an insured person who has supported dependents either wholly or principally from his earnings, there shall in addition be paid to the dependents house money (*Hausgeld*) equal to one-half of the amount of the pecuniary sick benefit. The house money may be paid directly to the dependents.

ARTICLE 187.

The constitution may—

1. Extend the duration of the sick benefits up to one year;
2. Grant care for convalescents up to the duration of one year after the expiration of the sick benefits;
3. Permit the granting of such appliances to prevent disfigurement or deformity, which after the completion of the medical treatment become necessary in order to restore or maintain the ability to work.

ARTICLE 188.

If insured persons have already received the pecuniary sick benefit or the benefits substituted therefor for 26 weeks successively or collectively within 12 months, either on the basis of the imperial insurance or from a miners' sick fund or a substitute fund, then the constitution may limit the sick benefits to the regular benefits and to a total duration of 13 weeks in a new case which occurs during the next 12 months. This is only applicable where the sick benefits are demanded on account of the same cause of sickness which has not been removed.

ARTICLE 189.

PARAGRAPH 1. Where an insured person draws a pecuniary sick benefit at the same time from another insurance, the sick fund has to reduce its benefit to such an extent that the total pecuniary sick benefit of the member does not exceed the average amount of his daily earnings.

PAR. 2. The constitution may refrain from making the reduction either as to all of it or part of it.

ARTICLE 190.

When they make claim to the pecuniary sick benefit or its equivalent, the constitution may require the members to communicate to the directorate the amount of the benefits which they are receiving at the same time from another sickness insurance. The question as to which sickness insurance provides the benefits is not permissible.

ARTICLE 191.

PARAGRAPH 1. The constitution may increase the pecuniary sick benefit up to three-fourths of the basic wage and grant it generally for Sundays and holidays.

PAR. 2. The constitution may grant the pecuniary sick benefit from the first day of the disability in cases of sickness either lasting longer than one week, or resulting in death, or caused by industrial accidents, or with approval of the superior insurance office, also in other cases of sickness.

ARTICLE 192.

The constitution may refuse the pecuniary sick benefit to members either wholly or partly if—

1. They have injured the sick fund by an act punishable by loss of civic rights, for the duration of one year after the act;
2. The sickness has been caused intentionally or by culpable participation in brawls or disorderly conduct, for the duration of such sickness.

ARTICLE 193.

PARAGRAPH 1. With the approval of the superior insurance office, the constitution may establish a maximum amount for minor therapeutic appliances, and also specify that the fund may grant an

additional allowance up to this amount for major therapeutic appliances.

PAR. 2. It may grant for the care of patients still other means besides minor therapeutic appliances, particularly special diet for sickness.

PAR. 3. In the case of insured persons who voluntarily remain members of a sick fund (art. 313) the constitution may grant them in the place of the sick care an amount equal to at least one-half of the pecuniary sick benefit, if they are not residing in the district of the sick fund or of the local insurance office.

ARTICLE 194.

The constitution may—

1. Increase the house money up to the amount of the legal pecuniary sick benefit;
2. Grant to insured persons, for whom no house money is to be paid, a pecuniary sick benefit up to one-half of its legal amount in addition to hospital treatment.

III. MATERNITY BENEFITS.

ARTICLE 195.

PARAGRAPH 1. Women lying-in who in the preceding year before their confinement have been insured against sickness at least six months on the basis of the imperial insurance or in a miners' sick fund shall receive a maternity benefit in the amount of the pecuniary sick benefit for eight weeks, six of which must fall in the period after confinement.

PAR. 2. In the case of members of rural sick funds who are not subject to the Industrial Code the constitution must specify that the duration of the receipt of maternity benefits shall be at least four weeks, but not more than eight weeks.

PAR. 3. The pecuniary sick benefit shall not be granted in addition to the maternity benefit. The weeks after the confinment must be consecutive.

ARTICLE 196.

PARAGRAPH 1. With the consent of the women lying-in, the sick fund may—

1. Grant in place of the maternity benefit, medical treatment and maintenance in a lying-in home;
2. Grant treatment and attendance by home nurses and deduct for it not more than one-half of the maternity benefit.

PAR. 2. Article 186 is correspondingly applicable in the case of number 1.

ARTICLE 197.

If a woman lying-in has been insured during the last year in several sick funds, miners' sick funds, or substitute funds, then on demand the amount of the maternity benefit shall be repaid by the other funds to the sick fund liable for the benefits, according to articles 195 and 196, in proportion to the duration of her membership.

ARTICLE 198.

The constitution may grant either to married women subject to insurance or to all females subject to insurance under the requisites mentioned in article 195, paragraph 1, the services of a midwife and the services of an obstetrician if such become necessary at the confinement.

ARTICLE 199.

In the case of pregnant women who have belonged at least six months to the sick fund, the constitution may—

1. Grant them a pregnancy benefit in the amount of the pecuniary sick benefit for a total duration of not more than six weeks, if they become incapacitated for work on account of their pregnancy;
2. Include in the duration of this benefit the time of the granting of a maternity benefit before confinement;
3. Grant the services of a midwife and medical treatment if such become necessary for ailments incidental to pregnancy.

ARTICLE 200.

The constitution may grant to women lying-in of the class designated in article 195, paragraph 1, a nursing benefit up to the amount of one-half of the pecuniary sick benefit and up to the expiration of the twelfth week after the confinement, so long as they themselves nurse their newborn children.

IV. FUNERAL BENEFITS.

ARTICLE 201.

As a funeral benefit, there shall be paid at the death of an insured person twenty times the amount of the basic wage.

ARTICLE 202.

If, while a member of a sick fund, a sick person dies from the same sickness within one year after the expiration of the sick benefits, the funeral benefit shall be paid: *Provided*, That he has been incapacitated for work up to his death.

ARTICLE 203.

From the funeral benefit are first defrayed the costs of burial, and they shall be paid to the person who has taken care of the burial. In case there is a surplus, then in the following order—the husband or wife, the children, the father, the mother, and the brothers and sisters are successively entitled to receive it, provided that they were living in the same household with the deceased at the time of his death. In the absence of such persons the surplus reverts to the sick fund.

ARTICLE 204.

The constitution may increase the funeral benefit up to forty times the amount of the basic wage; it may also establish the minimum amount at 50 marks [$11.90].

V. BENEFITS TO THE FAMILY.

ARTICLE 205.

The constitution may grant—

1. Sickness care to members not subject to insurance, of the family of an insured person.
2. A maternity benefit to the wife not subject to insurance, of an insured person.
3. A funeral benefit on the death of a wife or husband or a child of an insured person. It may be fixed for the wife or husband at not more than two-thirds, for a child at not more than one-half of the funeral benefit of a member, and is to be reduced by the amount of any funeral benefit for which the deceased himself was insured according to law.

VI. GENERAL PROVISIONS.

ARTICLE 206.

For persons subject to the insurance the claim to the regular benefits begins with their membership (arts. 306 to 308).

ARTICLE 207.

The constitution may specify that the claim of persons entitled to insurance who have voluntarily joined the sick fund shall begin only after a waiting term of not more than 6 weeks.

ARTICLE 208.

It may specify that the claim to additional benefits of the fund shall begin only after a waiting term of not more than 6 months after their admittance. Such a provision shall not be applicable to members who, during the last 12 months have already had for at least 6 months a claim to the additional benefits of a sick fund or a miners' sick fund.

ARTICLE 209.

PARAGRAPH 1. By separation from membership this waiting term can be interrupted for the duration of not more than 26 weeks.

PAR. 2. For members who leave in order to perform their compulsory service in the army or navy the above duration is increased by this period of service.

ARTICLE 210.

With the exception of funeral benefits, the cash benefits shall be paid at the expiration of each week.

ARTICLE 211.

In cases where the insurance has already begun the benefits may be increased but not reduced by amendments to the constitution; changes in the basic wage shall have no influence.

ARTICLE 212.

PARAGRAPH 1. If an insured person who is receiving cash benefits goes over to another fund, the latter takes over the further payment of benefits according to its constitution. The period during which benefits have already been received shall be included in counting the duration of the benefits.

PAR. 2. The insured person shall receive additional benefits only if he has already acquired a claim to additional benefits in his former sick fund.

ARTICLE 213.

If a suck fund has accepted the contributions for a person for 3 months without interruption and without objection, after application has been made in due form and not intentionally incorrect, and if it develops, after an insurance case occurs, that the person was not subject to insurance and was not entitled to insurance, then the sick fund must nevertheless grant him the benefits prescribed by the constitution.

ARTICLE 214.

PARAGRAPH 1. Insured persons who leave the fund on account of lack of employment (*Erwerbslosigkeit*) and who in the preceding 12 months have been insured either not less than 26 weeks or for 6 weeks immediately previous to leaving the fund, shall retain their claim to the regular benefits of the sick fund: *Provided*, That the case of insurance occurs during unemployment and within 3 weeks after leaving the fund. On application the sick fund must certify to the beneficiary his claim for these benefits.

PAR. 2. A funeral benefit shall also be granted even after the expiration of the 3 weeks if the sick benefits have been paid up to the time of death.

PAR. 3. If the unemployed person remains in a foreign country and if the constitution does not provide otherwise the claim shall cease.

ARTICLE 215.

PARAGRAPH 1. If the Federal Council specifies that persons not subject to insurance according to article 168 may join the insurance voluntarily, it may restrict the regular benefits either to medical care and to hospital treatment without house money, or to their substitutes (art. 185) without pecuniary sick benefit.

PAR. 2. For those persons who join the insurance voluntarily the constitution, with the approval of the superior insurance office, may restrict the sick-fund benefits either to the same extent or restrict them to the pecuniary sick benefit.

PAR. 3. For such insured persons the contributions shall be correspondingly reduced.

ARTICLE 216.

PARAGRAPH 1. Sick benefits shall be suspended—

1. As long as the beneficiary is serving a prison term or is in jail pending trial or has been placed in a workhouse or reformatory; if the insured person has become incapacitated for work through sickness, and if he has supported wholly or partly his dependents by his earnings, then they shall be granted house money (art. 186).
2. For beneficiaries who, after the case of insurance has occurred, without approval of the directorate of the sick fund voluntarily go to a foreign country, for the length of their abode there without this consent; the Federal Council may suspend the stopping of the claim for certain border territories.
3. For foreign beneficiaries so long as they are expelled from the territory of the Empire on account of condemnation in a penal procedure. The same applies to foreign beneficiaries who have been expelled from the territory of a federal State because of condemnation in a penal procedure, so long as they do not stay in another federal State.

PAR. 2. If the beneficiary has dependents in Germany to whom the constitution allows family benefits then these benefits shall be granted.

ARTICLE 217.

PARAGRAPH 1. When, after a case of insurance has occurred, an insured person relinquishes his abode in Germany, without a suspension of sick benefits, the sick fund may settle with him by the payment of a lump sum. This must correspond to the value of the cash benefits to which he would be entitled in Germany according to the probable duration of the sickness; in such case three-eighths of the basic wage shall be reckoned for medical care.

PAR. 2. In case of a dispute in regard to the settlement, the opinion of the physician agreed upon by the affected parties, otherwise of the official physician, is decisive.

ARTICLE 218.

Articles 216 and 217 are correspondingly applicable to maternity benefits, as also in the case of article 205, Nos. 1 and 2, for the family members entitled to benefits.

ARTICLE 219.

PARAGRAPH 1. Sick persons who reside outside of the district of their sick fund receive, on demand of their sick fund, the benefits to which they are entitled from the general local sick fund of their place of residence. If a special local sick fund or a rural sick fund for insured persons of their kind is in operation there, it must grant the benefits.

PAR. 2. The same is applicable to family members entitled to benefits, as also to unemployed persons who have left the insurance (art. 214).

ARTICLE 220.

The same is applicable to an insured person who falls ill during a temporary sojourn outside of the district of his sick fund, as long as he can not return to his place of residence on account of his condition. An application from his fund is not necessary, but within one week after the case of insurance occurred the sick fund which grants the benefits must notify the sick fund of the insured person, and as far as possible must carry out the latter's wishes as regards the nature of the relief.

ARTICLE 221.

If an insured person falls ill in a foreign country he receives from the employer the benefits to which he is entitled from his sick fund as long as his condition does not permit of his returning to Germany. The employer must notify the sick fund within one week of the occurrence of the case of insurance, and must carry out as far as possible its wishes as regards the nature of the relief. The sick fund may itself take over the relief.

ARTICLE 222.

In the cases of articles 219 to 221 the sick fund of the insured person must refund the costs to the other sick fund or to the employer. In such case three-eighths of the basic wage shall be considered as reimbursement for the cost of the sick care.

ARTICLE 223.

PARAGRAPH 1. Claims to sick benefits lapse within two years after the day of their origin.

PAR. 2. Deductions from the claims of the persons entitled to benefits may only be made for—

Reimbursement claims for amounts which the beneficiary has received in cases of article 1542, or from the imperial accident insurance, but which must be refunded to the sick fund.
Contributions overdue.
Advances paid.
Sick-fund benefits paid in error.
Costs of procedure which the beneficiary has to refund.
Fines imposed by the director of the sick fund.

PAR. 3. Only half the amount of pecuniary benefits may be deducted on account of claims.

ARTICLE 224.

The local insurance office decides, by judgment procedure, in disputes between sick funds in regard to—

1. Claim for refund according to articles 197 and 222.
2. Refund of benefits granted in error.

SECTION THREE—CARRIERS OF THE INSURANCE.

I. KINDS OF SICK FUNDS.

ARTICLE 225.

PARAGRAPH 1. Sick funds, according to this law, are—

The local sick funds (*Ortskrankenkassen*).
The rural sick funds (*Landkrankenkassen*).
The establishment sick funds (*Betriebskrankenkassen*).
The guild sick funds (*Innungskrankenkassen*).

PAR. 2. Members of miners' sick funds established under the provisions of State laws may not join these sick funds.

II. GENERAL LOCAL SICK FUNDS AND RURAL SICK FUNDS.

ARTICLE 226.

PARAGRAPH 1. Local sick funds shall be established for local districts (general local sick funds) (*Allgemeine Ortskrankenkassen*); rural sick funds shall also be created for similar areas.

PAR. 2. The local and rural sick funds shall, as a rule, be established within the district of a local insurance office.

PAR. 3. The highest administrative authorities may decree and permit exceptions.

ARTICLE 227.

The State legislation may specify for the territory or for parts of the territory of the federal State that no rural sick funds may be established in addition to the general local sick funds.

ARTICLE 228.

No rural sick fund shall be established, in addition to the general local sick fund; where the rural sick fund would not have at least 250 compulsory members.

ARTICLE 229.

The establishment of a rural sick fund, in addition to a general local sick fund, may, with the approval of the superior insurance office, be done away with, where the local insurance office (decision chamber) deems it unnecessary after a hearing of the employers and persons subject to insurance affected.

ARTICLE 230.

The establishment of a general local sick fund, in addition to a rural sick fund, may, with the approval of the highest administrative authority, be done away with, where the local sick fund would not have at least 250 compulsory members.

ARTICLE 231.

PARAGRAPH 1. General local sick funds and rural sick funds shall be established by decision of the union of communes.

PAR. 2. Where it is permissible for the district of a local insurance office to create one as well as several general local or several rural sick funds, the unions of communes affected must come to an agreement thereon. If they can not agree, the superior insurance office decides and decrees the establishment of the funds.

ARTICLE 232.

Where a general local or a rural sick fund is not established in proper time, the superior insurance office decrees its establishment.

ARTICLE 233.

PARAGRAPH 1. The communes and unions of communes affected have the right to appeal to the highest administrative authority against the decree of the superior insurance office.

PAR. 2. If the final decree is not carried out within the time limit, the superior insurance office establishes the sick fund or authorizes the local insurance office to do so.

ARTICLE 234.

Persons subject to insurance who do not belong to a miners' sick fund or to a special local or establishment or guild sick fund shall be members of the general local or rural sick fund of their class of occupation and of their place of employment.

ARTICLE 235.

PARAGRAPH 1. Members of the rural sick funds are—

Persons employed in agriculture.

Servants.

Persons employed in itinerant trades.

Persons engaged in home-working industries and their home-working employees.

PAR. 2. Persons employed in horticulture, in cemetery establishments, in the care of parks and gardens, are, with reservation of article 236, paragraph 1, and article 237, paragraph 1, members of rural sick funds only if they are employed in parts of agricultural establishments.

ARTICLE 236.

PARAGRAPH 1. The Federal Council may assign to the rural sick funds still other groups of insured persons who were not legally subject to insurance before this law came into force.

PAR. 2. For its territory or for parts thereof, the highest administrative authority may assign to the general local sick funds individual groups of persons required to be insured in the rural sick funds.

ARTICLE 237.

PARAGRAPH 1. If a district has no general local sick fund, the persons subject to insurance in local sick funds belong to the rural sick fund.

PAR. 2. If a district has no rural sick fund, the persons required to insure in the rural sick fund belong in the general local sick fund.

ARTICLE 238.

Persons entitled to insurance who desire to insure themselves voluntarily and who do not, according to articles 243, 244, 245, paragraph 4, and article 250, paragraph 2, become members of a special local or establishment or guild sick fund may, according to the class of their employment, join either the general local or the rural sick fund of their place of employment.

III. SPECIAL LOCAL SICK FUNDS.

ARTICLE 239.

PARAGRAPH 1. Where at the coming in force of this law there is in existence a local sick fund for one or for several branches of industry or kinds of establishments or for insured persons of one sex only, such fund shall be authorized as a special local sick fund, in addition to the general local sick fund, as long as it complies with the requirements of articles 240 to 242.

PAR. 2. It may retain the benefits allowed to be granted up to the present time, even though they are not of the same kind and are higher than those permitted by article 179, provided that such fund covers its expenses without exceeding the maximum legal contributions.

ARTICLE 240.

A special local sick fund shall be authorized only if—

1. It has at least 250 members (art. 241).
2. Its continuance does not endanger the existence or solvency of the general local, and the rural sick fund of the district (art. 242).
3. The benefits prescribed by its constitution are at least equal in value to those of the standard local sick fund, or are made equal within six months (art. 259 to 263).
4. Its solvency is permanently assured.
5. It does not extend beyond the district of the local insurance office.

ARTICLE 241.

The minimum number of members shall be reckoned according to the average for the last three years, or if the sick fund has been in existence a shorter period, according to the average for this period.

ARTICLE 242.

PARAGRAPH 1. The general local sick fund or the rural sick fund are especially considered as endangered if after the authorization of the special local sick fund the membership of the former funds would not reach at least 250.

PAR. 2. Until the membership of the general local sick fund or of the rural sick fund has reached this number, the sick funds with the smallest membership shall first be excluded.

ARTICLE 243.

To the special local sick fund belong those groups of persons subject to insurance for which the sick fund exists according to its constitution; persons belonging to these groups and entitled to insure themselves voluntarily may join this fund. The constitution may not enlarge the scope of the membership.

ARTICLE 244.

PARAGRAPH 1. If a special local sick fund is in existence for the industry branches and kinds of establishments in which the majority of the persons subject to insurance of an establishment is employed, all persons subject to insurance employed in the establishment shall belong to it, and likewise the persons entitled to insure themselves voluntarily can also join it; otherwise all of them shall belong to the general local sick fund.

PAR. 2. This does not affect membership in a special local sick fund operated for members of one sex only.

IV. ESTABLISHMENT SICK FUNDS AND GUILD SICK FUNDS.

ARTICLE 245.

PARAGRAPH 1. An employer may create an establishment sick fund for each establishment in which he employs permanently at least 150 persons subject to insurance and for each agricultural establishment or inland navigation establishment in which he employs permanently at least 50 persons subject to insurance. He may also create a common establishment sick fund for several establishments in which he employs permanently at least 150 persons altogether or in agricultural or inland navigation establishments at least 50 persons altogether who are subject to insurance. The persons affected who are subject to the insurance are first to be given a hearing.

PAR. 2. So far as an employer belongs with his establishment to a guild, which has a guild sick fund, he may not create an establishment sick fund for the employees subject to insurance who must belong to the guild sick fund.

PAR. 3. All persons employed in the establishment who are subject to insurance belong to the establishment sick fund. Article 181 is applicable where one of the establishments is an agricultural establishment.

PAR. 4. Persons entitled to insure themselves voluntarily, who are employed in the establishment, may join the sick fund as members.

ARTICLE 246.

Administrations of the Empire and of the federal States have the same right (art. 245, par. 1) for their service establishments. Article 245, paragraphs 3 and 4, are applicable to the employees in these establishments.

ARTICLE 247.

In establishments which on account of their nature annually reduce their force regularly or shut down temporarily (seasonal industries), the minimum number (art. 245, par. 1) must be on hand for at least two months.

ARTICLE 248.

An establishment sick fund may only be created if—

1. It does not endanger the existence or solvency of existing general local sick funds or rural sick funds (art. 242); in this connection a sick fund is not considered as endangered if it still has more than 1,000 members after the creation of the establishment sick fund;
2. The benefits provided by its constitution are at least equal in value to those of the standard sick fund;
3. Its solvency is permanently assured.

ARTICLE 249.

PARAGRAPH 1. Where a building owner employs temporarily a larger number of workmen in a temporary construction establishment he has to create an establishment sick fund on decree of the superior insurance office.

PAR. 2. With the approval of the superior insurance office the building owner may transfer this obligation to one or more employers, who have wholly or partly undertaken the construction on their own account, provided that sufficient surety is given.

PAR. 3. The provisions concerning a minimum membership as well as article 245, paragraph 2, article 248, are here not applicable; the superior insurance office determines the extent of the benefits.

PAR. 4. If the decree is not carried out within the term specified, the superior insurance office itself establishes the fund or charges the local insurance office with its establishment.

ARTICLE 250.

PARAGRAPH 1. A guild may create a guild sick fund for the establishments of the members who belong to the guild.

PAR. 2. The persons subject to insurance employed in the establishment belong to this sick fund, so far as they are not subject to insurance in rural sick funds according to articles 235 and 236. Persons employed in the establishments and entitled to insure themselves voluntarily can also join it.

PAR. 3. Employees of an establishment, with which an employer has voluntarily joined a compulsory guild or for which an establishment sick fund has been created according to article 249, do not belong to the guild sick fund.

PAR. 4. Where a member of a guild removes his industrial establishment outside of the district of the sick fund, the membership of his employees subject to insurance in the guild sick fund ceases to exist.

ARTICLE 251.

PARAGRAPH 1. A guild sick fund may only be established if—

1. It does not endanger the existence or solvency of existing general local sick funds and rural sick funds (art. 242); in this connection a sick fund is not considered as endangered if it still has more than 1,000 members after the creation of the guild fund;
2. The benefits provided by its constitution are at least equal in value to those of the standard local sick fund;
3. Its solvency is permanently assured.

PAR. 2. The committee of journeymen, the communal authority of the locality where the guild has its seat, the chamber of handwork, as well as the supervisory authority of the guild, shall be given a hearing previous to the establishment of the fund.

ARTICLE 252.

PARAGRAPH 1. The application for the approval of an establishment or guild sick fund shall be directed to the local insurance office.

PAR. 2. The local insurance office shall offer to the rural sick funds and general local sick funds affected an opportunity to give their opinion and shall submit the application with an expression of its opinion to the superior insurance office.

ARTICLE 253.

PARAGRAPH 1. Establishment sick funds which have not been decreed according to article 249, as well as guild sick funds, may only be established with the approval of the superior insurance office.

PAR. 2. The superior insurance office (decision chamber) may only refuse the approval for establishment sick funds, with reservation of article 273, paragraph 1, No. 2, if the sick fund does not have the prescribed membership or if it does not meet the requirements of article 248.

ARTICLE 254.

The following are entitled to an appeal to the highest administrative authorities against the decision of the superior insurance office:

The employer or the guild if the approval is refused.

Each rural sick fund or general local sick fund affected, if the approval is granted.

The employer, if the creation of a sick fund has been decreed according to article 249.

ARTICLE 255.

PARAGRAPH 1. An establishment sick fund which existed before the coming into force of this law shall only be authorized if—

1. It has at least one hundred members, or in the case of sick funds for agricultural or inland navigation establishments at least fifty members (arts. 241 and 247);
2. The benefits provided by its constitution are at least equivalent to those of the standard sick fund or are made so within six months;
3. Its solvency is permanently assured.

PAR. 2. Where a common establishment sick fund existed for establishments of several employers it may be authorized under the same conditions.

PAR. 3. These requirements are not applicable to establishment sick funds which are authorized for establishments of the Empire or federal States.

ARTICLE 256.

PARAGRAPH 1. A guild sick fund which existed before the coming into force of this law shall be authorized, if it complies with the requirements of article 255, paragraph 1, Nos. 2 and 3.

PAR. 2. Where a common guild sick fund existed for several guilds it may be authorized under the same conditions.

ARTICLE 257.

An authorized establishment sick fund, or guild sick fund, may retain other and higher benefits permissible up to the present time than those permitted by article 179, if the fund covers its expenses without exceeding the maximum legal contributions.

V. CONTROVERSIES.

ARTICLE 258.

PARAGRAPH 1. In disputes arising between sick funds, as to which of them the establishments or parts of establishments belong, the local insurance office (decision committee) decides. On appeal the superior insurance office decides finally.

PAR. 2. The same is applicable if the sick funds affected refuse to anyone the right of membership in the sick funds.

PAR. 3. Where the decision assigns establishments or parts of establishments to another sick fund, it shall also determine when the new insurance status comes in force.

PAR. 4. Final decisions concerning the right of membership in sick funds are binding for all authorities and courts.

VI. BENEFITS OF EQUAL VALUE.

ARTICLE 259.

PARAGRAPH 1. The competent local insurance office (decision committee) decides whether sick fund benefits are of equal value with other benefits.

PAR. 2. Estimates of the total value of the benefits shall be made in this connection with due consideration of the special kind of membership of the individual sick funds.

PAR. 3. The Federal Council may determine particulars in this connection.

ARTICLE 260.

Benefits of the standard sick fund which have not been in force a full year shall not be considered; nor shall additional benefits be considered which are only possible at the expense of the reserve, or by an increase of the contributions to more than 4½ per cent. of the basic wage.

ARTICLE 261.

PARAGRAPH 1. The general local sick fund of the district shall be the standard sick fund.

PAR. 2. In the case of a sick fund whose district embraces those of several general local sick funds, the general local sick fund of its seat shall be the standard sick fund. A sick fund also grants benefits of equal value if it has special groups of members and maintains for each group benefits whose value is equal to those of the competent general local sick fund.

PAR. 3. In the case of agricultural establishment sick funds the rural sick fund, or where none has been established, the general local sick fund shall be the standard sick fund.

ARTICLE 262.

PARAGRAPH 1. Whether the benefits are of equal value shall be determined every four years if facts are submitted which make it evident that the former determination is no longer correct.

PAR. 2. In the case of a newly established sick fund the local insurance office can take as a basis the benefits last determined of the standard sick fund.

ARTICLE 263.

PARAGRAPH 1. The local insurance office communicates its decision to the sick funds affected, and as far as it concerns the creation of an establishment or of a guild sick fund, also to the rural sick funds and general local sick funds affected.

PAR. 2. The sick funds have the right of appeal to the superior insurance office. This decides finally. In special cases it may request the opinion of the accounting bureau of the Imperial Insurance Office before making a decision.

VII. COMBINATION, SEPARATION, DISSOLUTION, AND CLOSING.

1. *Local and rural sick funds.*

ARTICLE 264.

PARAGRAPH 1. A rural sick fund established for the whole district of the local insurance office shall be combined with the general local sick fund of the district if its membership falls below 250 and does so not merely temporarily.

PAR. 2. This may be done when the local insurance office (decision committee) after a hearing of the employers and persons subject to insurance affected deems its continuance unnecessary.

PAR. 3. A general local sick fund established for the whole district of the local insurance office shall be combined with the rural sick fund of the district if its membership falls below 250 and does so not merely temporarily.

ARTICLE 265.

PARAGRAPH 1. If for the district of a local insurance office there have been established according to article 231, paragraph 2, several general local sick funds, they may be combined on decision of its committees and with the approval of the communes and unions affected.

PAR. 2. In the same manner several rural sick funds established according to article 231, paragraph 2 may be combined.

ARTICLE 266.

A general local or a rural sick fund shall be closed if it becomes evident that it should not have been established.

ARTICLE 267.

A general local or a rural sick fund, created for parts of the district of a local insurance office, shall be closed if—

1. Its membership falls below 250 and does so not merely temporarily and no combination according to article 265 is effected.
2. Its contributions, although they have amounted to 6 per cent. of the basic wage (arts. 389 and 390), inclusive of other reveuues, are not sufficient to cover the regular benefits, and in case of a local sick fund if the employer and the insured persons can not agree on an increase of the contributions, or in case of a rural sick fund if the union of communes does not furnish the requisite funds.

ARTICLE 268.

Where the district of a special local sick fund does not overlap that of the general local sick fund, the committees of both sick funds may decide to make the consolidation.

ARTICLE 269.

PARAGRAPH 1. A special local sick fund may be dissolved on the decision of its committee.

PAR. 2. It shall be closed if—

1. It does not comply with the requirements of articles 240 to 242.
2. It becomes unable to pay its benefits according to article 267, No. 2.
3. It becomes evident that it should not have been authorized.

2. *Establishment and guild sick funds.*

ARTICLE 270.

Several establishment sick funds for establishments of the same employer may on decision of their committees be combined into one fund.

ARTICLE 271.

In the case of a change in the organization of a public administration which has created establishment sick funds for its establishments or services the superior insurance office, or if several superior insurance offices are affected, the highest administrative authorities, on application and after a hearing of the administrative bodies of the sick funds, shall fix the districts of the sick funds in a different manner.

ARTICLE 272.

An establishment sick fund may be dissolved on application of the employer and with the approval of the sick fund committee.

ARTICLE 273.

PARAGRAPH 1. An establishment sick fund shall be closed if—

1. The establishment for which it was created ceases to exist.
2. The employer does not provide for orderly handling of the funds and the accounts; the creation of a new establishment sick fund can be refused to him.
3. It becomes evident that it should not have been established or authorized.

PAR. 2. If in the case of No. 2 above, an establishment sick fund created by decree (art. 249) is concerned, the local insurance office may engage at the expense of the employer a representative for the management of the business of the fund.

ARTICLE 274.

An establishment sick fund not established by decree (art. 249) shall be closed if—

1. Its membership falls below the minimum number and this decrease is not merely temporary (art. 245, par. 1, and art. 255, par. 1, No. 1).
2. The employer with the establishment becomes a member of a voluntary guild or a compulsory member of a compulsory guild which has a guild sick fund.
3. Its benefits are not equivalent to those of the standard sick fund and can not be made so within six months.
4. Its solvency is no longer permanently assured.

ARTICLE 275.

An establishment sick fund created by decree according to article 249 may be closed by the superior insurance office.

ARTICLE 276.

Guild sick funds shall be combined whenever their guilds are combined.

ARTICLE 277.

PARAGRAPH 1. If a compulsory guild is created, and in consequence a guild is closed, the rights and obligations which it had relative to its guild sick fund shall be transferred to the compulsory guild.

PAR. 2. The fund shall be closed if the compulsory guild includes another district or other industry branches.

ARTICLE 278.

A guild sick fund may be dissolved on decision of the guild meeting after a hearing of the journeymen's committee and with the approval of the sick fund committee.

ARTICLE 279.

A guild sick fund shall be closed if—

1. The guild which established it goes into liquidation or is closed, with reservation of article 277, paragraph 1.

2. Its benefits are not equivalent to those of the standard local sick fund and can not be made so within six months.
3. Its solvency is no longer permanently assured.
4. Orderly handling of cash funds and accounts is not provided.
5. It becomes evident that it should not have been established or authorized.

3. *Procedure.*

ARTICLE 280.

The superior insurance office (decision chamber) in whose district the sick funds have their seat decides on the consolidation, dissolution, and closure of sick funds as well as on the question of separating from such funds. Where the seats of the sick funds affected are located in districts of different superior insurance offices, the highest administrative authority determines the competent superior insurance office.

ARTICLE 281.

The application for consolidation, separation, or dissolution is to be directed to that local insurance office which is competent for the sick funds affected. If their seats are located in districts of different local insurance offices, the superior insurance office determines the competent local insurance office.

ARTICLE 282.

PARAGRAPH 1. Any sick fund affected may make this application; in the case of local or rural sick funds, the competent union of communes can also do so; in the case of establishment sick funds the employer may also do so, and in the case of guild sick funds, the guild likewise.

PAR. 2. If this is not done in due time in cases of article 264, paragraph 1, or of article 276, the local insurance office makes the application on its own initiative.

PAR. 3. If a sick fund must be closed, the local insurance office starts the procedure on its own initiative. In the case of establishment sick funds created by decree it has the right to do so (art. 249).

ARTICLE 283.

PARAGRAPH 1. The local insurance office gives the parties affected an opportunity to express themselves concerning the application. Those sick funds, to which transferred members would have to belong in the future, are considered as affected, as well as the persons designated in article 282, paragraph 1.

PAR. 2. The local insurance office presents the application with the expressions of opinion and the amended constitution to the superior insurance office and expresses thereby its own opinion, so far as it has not itself caused the change.

ARTICLE 284.

PARAGRAPH 1. The superior insurance office specifies in its decision the date on which the amendment comes in force. There must be a minimum interval of four months between the decision and the date specified; in the case of closure of sick funds this term may be shorter in urgent cases.

PAR. 2. The parties affected have the right of appeal against the decision to the highest administrative authority.

ARTICLE 285.

PARAGRAPH 1. In the case of the consolidation of sick funds mutual agreement must be made between the sick funds affected according to articles 286 to 297.

PAR. 2. The highest administrative authority may determine particulars concerning the mutual agreement.

ARTICLE 286.

PARAGRAPH 1. The mutual agreement shall precede the decision of the superior insurance office.

PAR. 2. To bring about the mutual agreement the representatives of the sick funds affected meet on invitation of the local insurance office under the direction of its representative.

PAR. 3. If an agreement is effected thereby, it shall require the consent of the sick fund committees affected as well as the approval of the local insurance office. The decision committee may decline to grant the approval for important reasons.

ARTICLE 287.

If no agreement is effected, or if one of the participating committees does not consent, or the features objectionable to the local insurance office are not removed, the local insurance office (decision committee) takes charge of the arrangements.

ARTICLE 288.

PARAGRAPH 1. The sick fund which receives the other assumes the rights and obligations of the other sick fund, so far as articles 289 to 296 do not provide otherwise.

PAR. 2. Article 326 is applicable where amendments to the constitution become necessary.

ARTICLE 289.

The members of the admitted sick fund who are subject to insurance become members of the admitting sick fund. Members who are entitled to insure themselves voluntarily having the right to membership in the admitting sick fund. The members transferred thereby continue their insurance status without interruption.

ARTICLE 290.

PARAGRAPH 1. The admitting sick fund must take over the officials and employees of the admitted sick fund under the same or equivalent conditions.

PAR. 2. The officials and employees of the fund must accept with the admitting sick fund similar positions corresponding to their ability. They must also content themselves with another employment in the service of the sick fund which is not obviously unsuited to their abilities. They become subject to the service rules of the admitting sick fund; their total income shall not be reduced.

ARTICLE 291.

PARAGRAPH 1. The directorate of the sick fund which is to be admitted shall communicate without delay the decision of the superior insurance office (art. 284, par. 1) to the physicians and dentists to which the sick fund stands in contract relations. Within 14 days thereafter the physician or dentist may declare to the admitting sick fund his readiness to render service for it under the conditions which he had already agreed upon with the admitted sick fund, or under the terms which the admitting sick fund makes with its own physicians and dentists. If the admitting sick fund does not accept the offer without delay it must compensate the physician or dentist. If the physician or dentist has not declared his willingness within 14 days, the contract relation may be revoked by either party, beginning from this point of time, by observing three months' period of notice, but not sooner than the date of admission. Contractual rights to give notice at an earlier point of time are hereby not affected.

PAR. 2. This shall be correspondingly applicable for contract relations of the sick funds with owners and administrators of pharmacies, all classes of medical institutions, and with the persons enumerated in article 122, as also with dealers.

ARTICLE 292.

The representatives of the sick funds affected and the local insurance office may determine that an admitted sick fund shall for a maximum period of four years be represented in the directorate of the admitting sick fund by a specified number of insured persons and employers.

ARTICLE 293.

The fund which is to be admitted shall ascertain by a balance sheet (arts. 39, 40, and 261 of the Commercial Code) its net assets, and for each transferred member assign therefrom to the admitting sick fund an amount equivalent to the amount of net assets falling to each member of the admitting sick fund.

ARTICLE 294.

PARAGRAPH 1. If there are still any free assets they are to be turned over to the admitting sick fund.

PAR. 2. If this amount is large enough the committee of the sick fund which is to be admitted may form thereof a special fund for the members which are to be transferred, from which they shall receive an increase in the funeral benefit. The increase must not exceed the amount of the funeral benefit according to articles 204 and 205, No. 3.

PAR. 3. The directorate of the admitting sick fund shall administer this special fund in accordance with the manner specified. If the last insured person transferred has left, the balance shall go in the reserve fund of the sick fund.

PAR. 4. If the admitting sick fund grants considerably higher benefits, the sick fund which is to be admitted has to turn over to it in advance an amount which according to a proper estimate will equalize the difference.

ARTICLE 295.

If it can be shown that the employer or the guild have made voluntary gifts to an establishment fund or guild sick fund which is to be admitted, they may transfer a corresponding part of the free assets to the benefit of a special sick fund or a special endowment (art. 294, par. 3) for the members who are transferred.

ARTICLE 296.

PARAGRAPH 1. Where a sick fund which is to be admitted does not possess the full per capita amounts (art. 293) or any net assets, it shall turn over only the assets on hand.

PAR. 2. If the balance sheet of an establishment fund or guild sick fund which is to be admitted shows a deficit the employer or the guild liable for these amounts must cover the deficit.

PAR. 3. If such a deficit becomes evident in a local or rural sick fund which is to be admitted, then the admitting sick fund for one year increase the contributions for the insured persons admitted, by a special assessment up to the maximum legal amount (art. 389).

ARTICLE 297.

PARAGRAPH 1. The parties affected have the right of appeal to the superior insurance office (decision chamber) against the mutual arrangements approved or caused by the local insurance office. The decision of the superior insurance office is final.

PAR. 2. So far as the appealed decision relates to financial affairs, the superior insurance office may ask the accounting bureau of the Imperial Insurance Office to express its opinion.

ARTICLE 298.

PARAGRAPH 1. Mutual arrangements between the sick funds affected also take place if—

1. The districts of the sick funds are changed by a different delimination of the administration districts;
2. In a district where up to the present time no general local or no rural sick fund existed, a sick fund of this kind is established;
3. A new sick fund of the same kind is separated from a general local or a rural sick fund.
4. Persons belonging to the same industry branch or the same kind of establishment after a majority decision make application to be separated from an authorized special local sick fund;
5. One of several establishments of an employer for which there exists a common establishment sick fund changes ownership and one of the employers affected applies for a separation;
6. An employer with his establishments separates from an authorized common establishment sick fund;
7. A part of the members separate from a guild sick fund because the membership class of the guild is to be delimitated in a different manner or a compulsory guild is to be established;
8. A guild makes application to separate from an authorized common guild sick fund.

PAR. 2. For the mutual agreement articles 286 to 297 are correspondingly applicable.

PAR. 3. In the case of unimportant changes and of article 271, a mutual agreement may with the consent of the sick funds affected be done away with; article 288, paragraph 2, and article 289 are then also correspondingly applicable.

ARTICLE 299.

In the case of dissolution and closing of sick funds, their relations to others shall be regulated according to articles 300 to 305.

ARTICLE 300.

PARAGRAPH 1. In so far as members of a sick fund which has been dissolved or closed are present, the local insurance office after a hearing of their sick fund directorate, assigns them to the appropriate sick funds. The members entitled to insurance have the right of membership in the corresponding sick fund. The members transferred thereby continue their insurance status without interruption. Article 288, paragraph 2, is in such case correspondingly applicable.

PAR. 2. The superior insurance office (decision chamber) decides finally on appeals relating to the assignment.

ARTICLE 301.

PARAGRAPH 1. The directorate of the dissolved or closed sick fund shall wind up the affairs of the sick fund. Until the affairs are wound up the sick fund is considered as in continuance as far as the purpose of the liquidation so requires.

PAR. 2. The directorate gives public notice of the dissolution or closing. The payment of creditors who fail to present their claims within three months from the notice may be refused; the notice

shall call attention to this fact. Known creditors shall under the same reference be specially requested to present their claims. These provisions are not applicable to claims connected with the insurance.

ARTICLE 302.

PARAGRAPH 1. The directorate of the sick fund which is being dissolved or closed shall without delay notify the employees, physicians, and dentists with whom the sick fund has contract relations of the decision of the superior insurance office (art. 284, par. 1.) The contract relation terminates within three months after the notification, but at the earliest with the date of dissolution or closing. The notice shall call attention to this fact. Contractual rights to give notice at an earlier point of time are hereby not affected.

PAR. 2. This is correspondingly applicable to contract relations of the sick funds with pharmacy owners and pharmacy administrators, medical institutions of all classes, and with persons enumerated in article 122.

ARTICLE 303.

PARAGRAPH 1. If there are still any free assets after liquidation of the affairs, then the local insurance office, with consideration of the transfer of members, shall assign these assets to the sick funds.

PAR. 2. Article 295 is hereby correspondingly applicable in the case of establishment and guild sick funds.

PAR. 3. The superior insurance office (decision chamber) decides finally on appeals concerning the assignment.

ARTICLE 304.

Article 296, paragraph 2, is correspondingly applicable in the case of establishment funds and guild sick funds if the assets are not sufficient to pay off the creditors.

ARTICLE 305.

PARAGRAPH 1. Where the assets of a dissolved or closed local or rural sick fund are not sufficient to pay the claims of the officials, the union of communes shall make up the deficit; the official must accept a position offered him by the union. This provision is correspondingly applicable to the guild in the case of a guild sick fund.

SECTION FOUR.—CONSTITUTION.

I. MEMBERSHIP.

1. *Beginning and termination.*

ARTICLE 306.

The membership of persons subject to insurance begins with the date of their entrance in the employment subject to insurance.

ARTICLE 307.

The membership in the case of a newly created establishment sick fund begins for all persons subject to insurance employed in the establishment, with the date on which the sick fund comes into existence.

ARTICLE 308.

The above is applicable, with reservation of article 250, paragraph 3, to employees subject to insurance in establishments, with which guild members belong to a guild, in the case of the creation of a guild sick fund or the later admission of the employer to the guild.

ARTICLE 309.

PARAGRAPH 1. To which sick fund an insured person shall belong, who has at the same time several employment relations subject to insurance, shall be decided by his principal employment.

PAR. 2. In case of doubt, the employment relation into which he has first entered shall be decisive.

PAR. 3. The Federal Council may specify the particulars in such a case.

ARTICLE 310.

PARAGRAPH 1. The membership of persons entitled to insurance shall begin with the date of their admission to the sick fund. The admission is effected by written or oral application to the directorate or to the office of registration (art. 319).

PAR. 2. A sickness already existing at the time of admission does not entitle to benefits for this sickness. If the constitution makes the right of admission dependent on the presentation of a medical health certificate (art. 176, par. 3), the same must accompany the application.

PAR. 3. Persons entitled to insure themselves voluntarily, who apply for admission, may be subjected to a medical examination by the sick fund. It may refuse the applications of sick persons and such persons for whom the necessary medical health certificates according to paragraph 2 do not suffice, this refusal to take effect beginning with the application.

ARTICLE 311.

Persons unable to work retain their membership as long as the sick fund has to grant them benefits.

ARTICLE 312.

The membership ceases as soon as the insured person becomes a member of another sick fund or of a miners' sick fund.

ARTICLE 313.

PARAGRAPH 1. If a member who was insured on the basis of the imperial insurance or in a miners' sick fund at least 26 weeks in the preceding 12 months, or at least 6 weeks immediately previous thereto, leaves the employment subject to insurance, he may retain his membership in his class or grade of wages as long as he resides regularly in Germany and does not cease to be a member according to article 312. He may have himself transferred to a lower class or grade of wages.

PAR. 2. Whoever desires to retain his membership must notify the sick fund within three weeks after leaving, or in the case of article 311 after the termination of the benefits. If a member becomes ill in the second or third of these weeks, then with reservation of article 214 he has a claim to benefits only if he has given notice during the first week. The full payment, within the same time limit, of the contributions provided in the constitution is equivalent to the notification. With the approval of the superior insurance office the constitution may specify longer time limits.

ARTICLE 314.

PARAGRAPH 1. The membership of persons entitled to insure themselves voluntarily ceases if they have failed twice in succession to pay the contributions on the date when due, and if at least four weeks have elapsed since the first of these dates. The constitution may extend this time limit to the next following day of payment.

PAR. 2. If the directorate learns on good authority that the regular total annual income of a member entitled to insure himself voluntarily, exceeds 4,000 marks [$952], it shall at once inform this member that his membership has ceased. The membership ceases with the delivery of the notification.

ARTICLE 315.

If, after application in due form, a sick fund has accepted the contributions from a person subject to insurance, for three months in succession and without objection, it must recognize him as a member as long as there is no change in his employment status, at least until the date on which the directorate of the sick fund, in writing, refers him or his employer to another sick fund.

ARTICLE 316.

In case the other sick fund contests his right to belong to it, the old sick fund must, with reservation of a later refund, continue to accept provisionally the contributions and to grant the benefits up to the time of the decision.

2. *Registration.*

ARTICLE 317.

PARAGRAPH 1. Within three days from the beginning and termination of the employment the employers must register each person employed by them who is subject to membership in a local, rural, or guild sick fund at the place determined by the constitution or according to article 319. Changes in the employment status having influence on the insurance obligation shall also be registered within three days.

PAR. 2. The registration may be omitted if the work is interrupted for a shorter period than one week and if the payment of contributions is kept up. The constitution may extend the time limit for registration beyond the third day and up to the last working day of the calendar week.

PAR. 3. The sick fund may make an agreement with the administrations of Imperial or State establishments as to other methods of registration.

PAR. 4. The highest administrative authority may issue regulations regarding the form and contents of the registration notice.

ARTICLE 318.

PARAGRAPH 1. The application must also contain the statements required by the constitution for the computation of contributions.

PAR. 2. Changes in these relations are to be reported within the time limit of registration.

PAR. 3. In the case of a change in wages the grade of wages does not change until the next payment of the contribution, unless the constitution provides otherwise.

ARTICLE 319.

PARAGRAPH 1. The local insurance office may establish in its district joint registration offices for all or for several local, rural, and guild sick funds, or with the approval of the communal supervisory authority turn over the business of these funds to the local authorities.

PAR. 2. The costs shall be divided among the different sick funds in proportion to their annual revenues from contributions, unless the superior insurance office specifies a different basis.

II. CONSTITUTION.

ARTICLE 320.

PARAGRAPH 1. Before coming into existence, each sick fund shall draw up a constitution.

PAR. 2. It shall be drawn up in the case of—

Local and rural sick funds, by the union of communes after a hearing of the employers and insured persons interested;

Establishment sick funds, by the employer or his representative after a hearing of the employees;

Guild sick funds, by the general meeting of the guild with the participation of the journeymen's committee according to article 95 of the Industrial Code (*Gewerbeordnung*).

PAR. 3. If a fund is not established within the time limit finally decreed (art. 233, par. 2, and art. 249, par. 4), the local insurance office shall draw up a constitution for it.

ARTICLE 321.

The constitution must indicate the district of the sick fund and the class of its members and specify the following:

1. Name and seat of the sick fund;
2. Nature and extent of benefits;
3. Amount of contributions and time of payment;
4. Composition, rights, and duties of the directorate;
5. Composition and convocation of the committee and the method of forming its decisions, as also its representation in dealings with third parties in case of article 346, paragraph 1;
6. Drawing up of the preliminary budget;
7. Drawing up and acceptance of the annual accounts;
8. Amount of allowances according to article 21, paragraphs 2 and 3;
9. Method of issuing public notices;
10. Amendment of the constitution.

ARTICLE 322.

In the case of the local, rural, and guild sick funds the constitution must indicate the places for registration.

ARTICLE 323.

The constitution may not specify anything which contravenes the legal regulations or does not come within the purpose of the fund.

ARTICLE 324.

PARAGRAPH 1. The constitution, as well as the amendments thereto, requires the approval of the superior insurance office. When it gives its approval to the constitution, the superior insurance office shall at the same time specify when the sick fund comes into existence.

PAR. 2. The approval may be refused only by the decision chamber, and then only in case the constitution does not comply with the legal provisions.

PAR. 3. Where the law demands the approval for individual regulations of the constitution by the superior insurance office, the approval may be refused by the decision chamber only. The decision is final.

PAR. 4. The reasons for the refusal shall be stated.

ARTICLE 325.

Each member shall receive free a printed copy of the constitution and the amendments thereto; also, on application, each employer who employs members of the sick fund shall receive a copy.

ARTICLE 326.

PARAGRAPH 1. If it subsequently develops that a constitution according to article 324, paragraph 2, should not have been approved, the superior insurance office (decision chamber) shall decree the necessary amendment.

PAR. 2. If within one month the committee does not decide upon the amendment ordered by a final decree, the superior insurance office (decision chamber) shall issue the same with legal force.

PAR. 3. The same applies to amendments of the constitution ordered by a final decree, which are required by the provisions of this law.

III. ADMINISTRATIVE BODIES OF THE FUNDS.

1. *Organization of local and rural sick funds.*

ARTICLE 327.

The directorate and committee transact the affairs of the funds. The members of the committee may not belong to the directorate; if such are elected in the directorate, they must leave the committee.

ARTICLE 328.

PARAGRAPH 1. The members of the directorate elect from their own number the president of the directorate.

PAR. 2. Whoever receives the majority of votes, either from the group of employers or from that of the insured persons, is elected.

ARTICLE 329.

PARAGRAPH 1. When this majority can not be obtained the election is adjourned to another day.

PAR. 2. If also in the second session no election is effected, the directorate notifies the local insurance office. The latter appoints a representative who administers the rights and duties of the president at the expense of the sick fund until a valid election is effected. On appeal the superior insurance office decides finally. An employer may only then be appointed as representative if the majority of the group of employees does not object and an employee only if the majority of the group of employers does not object.

PAR. 3. A person employing only servants or nonpermanent workmen is not considered an employer in the meaning of paragraph 2.

ARTICLE 330.

The members of the directorate of the local sick fund elect from their number in a joint election one or more substitutes for the president.

ARTICLE 331.

PARAGRAPH 1. The representatives of the union of communes elect the president and the other members of the directorate of the rural sick fund, among which must be one or more substitutes for the president. One-third of these members must belong to the employers affected (art. 332, par. 2), and two-thirds to persons insured in the sick fund.

PAR. 2. The highest administrative authority may specify that the president and the other members of the directorate shall be elected in the same manner as the representatives in the committee according to article 336, paragraph 2.

ARTICLE 332.

PARAGRAPH 1. One-third of the committee consists of representatives of the employers affected and two-thirds of representatives of the insured persons. It has a maximum number of 90 representatives.

PAR. 2. An employer is considered as affected if he has to pay contributions to the sick fund for his employees subject to insurance, and if he is not to be counted among the insured persons according to article 14, paragraph 2.

ARTICLE 333.

PARAGRAPH 1. In the case of a local sick fund the employers affected who are of age and the insured persons who are of age elect their representatives from their own number, and this must be done in separate elections, under the direction of the directorate.

PAR. 2. The first election after the establishment of the sick fund takes place under the direction of a representative of the local insurance office; later elections only where no directorate exists.

PAR. 3. The voting power of the individual employers shall be proportioned according to the number of their employees subject to insurance; the constitution may graduate it and provide a maximum number of votes. Provisions relating to graduation and maximum voting power require the approval of the superior insurance office.

ARTICLE 334.

PARAGRAPH 1. The interval between the notice of an election (art. 333) and the election itself must amount to at least one month. The constitution may fix a longer minimum interval.

PAR. 2. The constitution may specify that the election shall take place according to districts or occupation groups.

ARTICLE 335.

The representatives of the employers and of the insured persons in the committee elect from their group in separate elections, the members of the directorate, as follows: The employers elect one-third, the insured persons two-thirds.

ARTICLE 336.

PARAGRAPH 1. In the case of a rural sick fund the representatives of the union of communes elect representatives from the number of the employers affected and from the number of the insured persons in the fund.

PAR. 2. In such districts of local insurance offices in which only urban and rural communes exist, but not independent manor districts, marks, or march districts (*selbständige Gutsbezirke, Gemarkungen oder ausmärkische Bezirke*), the State government may transfer the right to vote to the representatives of the individual communes and can specify the particulars thereto.

PAR. 3. It may be decreed for the territory or parts of territories of the federal State by a State law that the directorate and committee shall be elected in the same manner as in the case of the local sick fund.

ARTICLE 337.

Employers who are in arrears with the payment of contributions may be excluded by the constitution from eligibility and from the right to vote.

2. *Composition of establishment and guild sick funds.*

ARTICLE 338.

PARAGRAPH 1. Article 327 is correspondingly applicable to establishment sick funds.

PAR. 2. The directorate and the committee consist of the employer or his representative and of the representatives of the insured persons; the committee has a maximum number of 50 representatives of the insured persons.

PAR. 3. The employer or his representative is the president; he has one-half of the number of votes granted by the constitution to the insured persons.

ARTICLE 339.

The insured persons who are of age elect from their own number under the direction of the directorate their representatives in the committee of the establishment sick fund. Article 333, paragraph 2, and article 334, paragraph 1, are here applicable. These representatives elect from the insured persons their representatives in the directorate.

ARTICLE 340.

A person who voluntarily continues his membership in an establishment sick fund is neither eligible nor has he the right to vote.

ARTICLE 341.

PARAGRAPH 1. Articles 327, 332, 333, 334, paragraph 1, 335, and 337 are also applicable to guild sick funds. The guild appoints the president and his substitutes from the members of the directorate.

PAR. 2. If according to the constitution, (art. 381, par. 2) the employers are required to pay one-half and the insured persons the other half of the contributions, then each of them is entitled to half of the representatives in the committee, and the representatives elected by the employers elect one half of the members of the directorate, and those elected by the insured persons the other half.

3. *Duties.*

ARTICLE 342.

The directorate administers the fund so far as the law does not provide otherwise.

ARTICLE 343.

PARAGRAPH 1. The directorate is required, on demand, to give to the industrial supervisory officials information relating to the number and class of cases of sickness.

PAR. 2. The highest administrative authorities may specify the particulars herewith.

ARTICLE 344.

The directorate must permit representatives of the carriers of the accident and of the invalidity and survivors' insurance to inspect in the office of the sick fund during business hours the books and lists for the purpose of ascertaining the number, time of employment, and amount of wages of their insured persons.

ARTICLE 345.

PARAGRAPH 1. The committee decides on all matters which the law, constitution, or service regulations do not assign to the directorate.

PAR. 2. To the committee is reserved—

1. The determination of the preliminary budget.
2. The acceptance of the annual balance sheet.
3. The representation of the sick fund against the members of the directorate;
4. The decision on agreements and contracts with other sick funds;
5. The decision on the establishment of places of registration and of payment;
6. The amendment of the constitution;
7. The dissolution of the sick fund or the voluntary affiliation of it with other sick funds.

PAR. 3. Decisions according to numbers 6 and 7 need a majority both of the employers and the insured persons. In the case of amendments to the constitution a joint vote is sufficient, if such are decreed according to article 326, or if they relate to benefits or contributions, and do not run counter to article 388 or 389.

ARTICLE 346.

PARAGRAPH 1. In the case of the acquisition, sale, or mortgaging of real estate, the sick fund shall be represented by the directorate and the committee.

PAR. 2. The approval of the committee is necessary for—

1. The service regulations for the employees which have been formulated or changed by the directorate (art. 355);

2. Decisions of the directorate relating to the establishment of hospitals and convalescent homes.

ARTICLE 347.

PARAGRAPH 1. The committee regulates through sickness regulations the registration and control of sick persons as well as their conduct.

PAR. 2. These regulations require the approval of the local insurance office. If the approval is refused, the superior insurance office (decision chamber) decides finally on appeal.

PAR. 3. If notwithstanding a requisition of the local insurance office a sick fund does not submit within the time limit any sickness regulations, the superior insurance office (decision chamber) shall draw up such regulations and they shall be of legal effect. The same is applicable to amendments or additions which have been ordered by decree.

PAR. 4. With the approval of the fund and under agreement regarding the costs, the local insurance office may assist the sick fund in the control of sick persons. The decision committee decides concerning this matter. If the fund declines such aid, the superior insurance office decides finally on appeal.

ARTICLE 348.

The committee specifies the method of remittance of contributions and of payment of benefits for members who do not reside in the district of the sick fund, and how the control of sick persons is to be regulated where such members are concerned.

IV. EMPLOYEES AND OFFICIALS OF THE FUND.

ARTICLE 349.

PARAGRAPH 1. The positions of officials and those employees to whom the service regulations (art. 351) are applicable, and which are paid from the means of the sick funds, shall be filled in the case of sick funds by concurring decisions of both groups in the directorate.

PAR. 2. If the groups can not agree, the decision is postponed to a later day. Should then no agreement be effected, the appointment may be decided on if more than two-thirds of those present vote for it; such a decision requires the confirmation of the local insurance office. It may only be refused on the basis of such facts which permit the conclusion that the person proposed lacks the necessary responsibility, especially for an impartial discharge of his official duties, or the ability requisite for the position.

PAR. 3. In case of a refusal of the confirmation, the superior insurance office (decision chamber) decides finally on appeal of the directorate.

ARTICLE 350.

When no decision relating to an appointment is effected, or the confirmation is finally refused, the local insurance office appoints temporarily at the expense of the sick fund the persons necessary for the discharge of the duties of the position. If the appointees have administered the affairs during one year, the local insurance office may, with the approval of the superior insurance office, appoint them permanently to the position, unless a valid decision relating to an appointment has meanwhile been effected.

ARTICLE 351.

PARAGRAPH 1. Service regulations must be formulated for the salaried employees of the sick funds who, according to State law, are not State or communal officials, or whose rights or duties are based on article 359.

PAR. 2. To employees who are employed only on probation, for temporary service, as a preparatory service, or who administer the office only incidentally without compensation, the service regulations are only applicable in so far as they expressly so provide.

ARTICLE 352.

The service regulations regulate the legal and the general service relations of the employees, especially the proof of their technical qualifications, their number, the class of appointment, the giving of notice or the discharge, and the determination of penalties. Technical qualifications must also be proved in some other manner than by the completion of a prescribed educational course.

ARTICLE 353.

PARAGRAPH 1. The service regulations must contain a scale of salaries. They shall regulate the following:

1. How long in case of involuntary disability the payment of the salary shall continue;
2. For what periods seniority increases of salary shall be granted;
3. Under what conditions a pension and survivors' relief shall be granted.

PAR. 2. They shall regulate also the requirements for promotion.

ARTICLE 354.

PARAGRAPH 1. Persons subject to the service regulations are appointed by written contract.

PAR. 2. The giving of notice of dismissal or the discharge of such employees shall, with reservation of paragraph 6, only be done on the concurring decision of the employers and insured persons in the directorate, or, in case such a decision is not effected, on decision of the majority of the directorate, with the approval of the presiding officer of the local insurance office; after 10 years of employment it may only take place for important reasons.

PAR. 3. Agreements relating to the right of the sick fund to give notice of dismissal must not place the employee in a worse position than he would be in the absence of an agreement according to the civil law.

PAR. 4. The giving of notice of dismissal or the discharge must not be forbidden in cases in which there are important reasons.

PAR. 5. Fines shall only be prescribed for not more than one month's salary.

PAR. 6. Employees who abuse their official position or their official affairs for the purpose of religious or political activity shall be reprimanded by the president of the directorate, and in the case of repetition, after they have been given an opportunity for a hearing, shall be discharged immediately; the discharge requires the approval of the president and of the local insurance office. Religious or political activity outside of official affairs and the exercise of the right of association shall not be prevented in so far as they do not conflict with the laws, and in themselves shall not be considered as reasons for giving notice of dismissal or for discharge.

ARTICLE 355.

PARAGRAPH 1. Before formulating the service regulations the directorate shall grant a hearing to the employees who are of age.

PAR. 2. In the directorate and also in the committee employers and insured persons decide separately on the service regulations.

PAR. 3. The service regulations require the approval of the superior insurance office. The directorate must designate to the superior insurance office those provisions of the service regulations on which the two groups in the directorate or committee have not

agreed and must give a statement of the relative vote. The superior insurance office decides on these provisions; in other respects it only may refuse the approval of the service regulations, if there is an important reason, especially if the number or the salaries of the employees are in striking disproportion to their duties.

PAR. 4. If the approval is refused, the highest administrative authority decides on appeal.

PAR. 5. The same is applicable to changes in the service regulations.

ARTICLE 356.

If, notwithstanding a requisition, a sick fund does not submit within the specified time limit any service regulations, the superior insurance office shall draw up the same and they shall have legal effect. The same is applicable to amendments or additions ordered by a decree.

ARTICLE 357.

PARAGRAPH 1. Decisions of the directorate or of the committee running counter to the service regulations shall be challenged by the president of the directorate through an appeal to the supervisory authority; the appeal effects a stay.

PAR. 2. If the directorate or its president does not make use of the right of giving notice of dismissal or of discharge against an employee, notwithstanding that there is a serious reason therefor, the local insurance office may require them to do so. On appeal of the directorate, the superior insurance office (decision chamber) decides finally on the decree.

PAR. 3. A provision of the employment contract running counter to the service regulations is invalid.

ARTICLE 358.

PARAGRAPH 1. The local insurance office (decision committee) decides in disputes relating to the service matters of employees subject to the service regulations. On appeal the superior insurance office decides finally. The imperial decrees (art. 35, par. 2) regulate the particulars concerning the procedure of discharge of an employee on account of contravention of the service regulations or in the case of article 354, paragraph 6, in accordance with the provisions of the imperial law for officials concerning the writ of accusation, admission of counsel for the defendant, hearing of the defendant, oral procedure, and passing upon the evidence.

PAR. 2. The following special provisions are applicable to pecuniary claims.

PAR. 3. The decision of the superior insurance office must precede the suit. Suit may only be brought within one month after the delivery of the decision of the superior insurance office; the time limit is a peremptory time limit in the meaning of article 223, paragraph 3, of the Code of Civil Procedure.

PAR. 4. Appeal to the regular courts is excluded where the determination of fines is concerned. The regular courts must accept the decisions of the insurance authorities on the question whether the period of dismissal having been observed, a notice of dismissal may be given for an important reason (art. 354, par. 2).

PAR. 5. Execution of the valid decisions of the insurance authorities takes place according to book eight of the Code of Civil Procedure.

ARTICLE 359.

PARAGRAPH 1. The directorate of a local, a rural, or a guild sick fund may, with the approval of the superior insurance office, employ officials for life or according to the State laws without recall or with the right to pension.

PAR. 2. In the case of a local, rural, or guild sick funds with over 10,000 insured persons the superior insurance office may, after a hearing of the sick fund, decree that at least the business directors shall be employed in this manner.

PAR. 3. The directorate may appeal against such a decree to the highest administrative authority.

PAR. 4. The State government may assign to officials appointed in this manner the rights and duties of State or communal officials.

PAR. 5. Article 357, paragraph 2, is applicable to the officials of the funds.

PAR. 6. No provision shall be made granting preference in the filing of vacancies to persons in possession of a certificate entitling the holder to a civil-service position (soldiers entitled to civil employment).

ARTICLE 360.

Where, according to the State laws, the officials of communes and other public corporations, who are not appointed for life or without recall, are obliged to join a pension fund under State control or a similar institution, the State government may extend the provisions in force for this purpose to the corporations and their employees to the local, rural, and guild sick funds and their employees.

ARTICLE 361.

Article 23, paragraph 1, is correspondingly applicable to managing officials or employees.

ARTICLE 362.

PARAGRAPH 1. In the case of establishment sick funds the employer appoints at his expense and on his own responsibility the persons necessary to conduct the affairs. Article 24 is correspondingly applicable to these persons.

PAR. 2. Employees of establishment sick funds, who abuse their official position or their official affairs for the purpose of religious or political activity, shall be reprimanded by the president of the directorate, and in case of a repetition shall be immediately discharged, after having been given an opportunity for a hearing; article 357, paragraph 2, is then correspondingly applicable.

V. ADMINISTRATION OF RESOURCES.

ARTICLE 363.

PARAGRAPH 1. The resources of the sick fund shall only be used for the benefits provided by the constitution, for the accumulation of the reserve, for the administration expenses, and for the general purposes of the prevention of sickness.

PAR. 2. On the authorization of the highest administrative authorities it is permissible to use the resources of the sick fund for the attending of meetings which shall serve the legal purposes of sickness insurance.

ARTICLE 364.

PARAGRAPH 1. The sick fund shall accumulate a reserve equal to the minimum amount of one year's expenses computed according to the average of the last three years and shall maintain it at this amount. For this purpose it shall use the parts of contributions paid by employers for members of substitute sick funds (art. 517, par. 2), and at least one-twentieth of the annual amount of the other contributions of the fund.

PAR. 2. In the case of establishment sick funds created by decree, the constitution, with the approval of the superior insurance office, may make other provisions.

ARTICLE 365.

Securities of the sick fund which are not merely an investment of operating resources which are temporarily available, shall be kept in the custody of the union of communes, unless the local insurance office provides otherwise.

ARTICLE 366.

The Federal Council shall specify the method and form of accounting.

ARTICLE 367.

PARAGRAPH 1. The sick fund must submit to the local insurance office a balance sheet and also statements relating to—

1. Members.
2. Cases of sickness, cases calling for other benefits, and deaths.
3. Contributions received.
4. Benefits granted.
5. Kind and amount of reimbursement for medical treatment.
6. Number of physicians, specialists, dental surgeons, dental assistants, owners and administrators of pharmacies, and other such persons selling medicines, who give their services to the sick fund.

PAR. 2. The Federal Council shall specify the model forms and the time limits for transmitting them; it may extend the contents of the reports. The reports and balance sheets shall be compiled uniformly at least every four years for the Empire.

VI. RELATION TO PHYSICIANS, DENTISTS, HOSPITALS AND PHARMACIES.

ARTICLE 368.

The relations between sick funds and physicians shall be regulated by written contract; the sick fund may, with the exception of urgent cases, decline to make payments to other physicians.

ARTICLE 369.

In so far as it would not seriously add to the expenses of the sick fund, its members shall be given the right to choose from at least two physicians. The insured person has free choice among the physicians appointed by the sick fund if he assumes himself the additional costs. But the constitution may specify, however, that the person under treatment may not change the physician during the same case of insurance or during the fiscal year without the approval of the directorate.

ARTICLE 370.

PARAGRAPH 1. If the providing of medical care by a sick fund is seriously endangered by the fact that the sick fund can not make contracts on reasonable conditions with a sufficient number of physicians, or because the physicians do not observe the contract, the superior insurance office (decision chamber) may authorize the sick fund on its application and subject to revocation to grant in place of the care of patients and other necessary medical treatment a pecuniary benefit up to two-thirds of the average amount of their legal pecuniary sick benefit.

PAR. 2. The superior insurance office (decision chamber) may at the same time specify—

1. How the condition of the person who shall receive the benefits may be proved by other means than by medical certificates.
2. That the sick fund may discontinue or withhold the benefits until sufficient proof is submitted.
3. That the obligation of the sick fund to pay benefits ceases if sufficient proof is not submitted within one year after the claim becomes due.

4. That the sick fund may direct those to whom it has to grant medical treatment to go to a hospital, even if the conditions of article 184, paragraph 3, do not exist.

PAR. 3. The sick-fund directorate has the right of appeal to the highest administrative authority against the decision of the superior insurance office (pars. 1 and 2).

ARTICLE 371.

PARAGRAPH 1. The constitution may authorize the directorate to grant hospital treatment only in certain hospitals, and where the sick fund must grant hospital treatment, to decline to make payments to other hospitals, with the exception of urgent cases.

PAR. 2. Hospitals intended exclusively for charitable or general welfare purposes or established by public unions or corporations, and ready to give hospital treatment on the same conditions as the hospitals designated in paragraph 1, may only be excluded for an important reason and with the approval of the superior insurance office.

ARTICLE 372.

PARAGRAPH 1. If the medical treatment or hospital care of a sick fund does not satisfy the legal demands of the sick persons, the superior insurance office may, with reservation of article 370, decree at any time that these benefits shall be granted by other physicians or hospitals; the fund shall first be given a hearing.

PAR. 2. This decree shall only apply so long as its purpose requires, and must have the approval of the superior insurance office if it is to be in force for more than one year.

ARTICLE 373.

PARAGRAPH 1. If the decree is not carried out within the time limit specified, the superior insurance office may itself take the necessary measures at the expense of the sick fund. Contracts already made by the sick fund with physicians and hospitals are not affected.

PAR. 2. The fund may appeal against these decrees and measures within one week to the highest administrative authority.

ARTICLE 374.

Articles 368, 372, and 373 are correspondingly applicable in regard to the relations between hospitals and dentists.

ARTICLE 375.

PARAGRAPH 1. Within the territory of the sick fund, or with the approval of the local insurance office outside of it, the constitution may authorize the directorate to make preferential contracts with individual owners or administrators of pharmacies for the furnishing of medicines, or in the case of medicines which are for sale in the open market, also with other persons selling them. All owners and administrators of pharmacies in the territory of the sick fund may join in such agreements. The directorate may then, with the exception of urgent cases and with reservation of article 376, paragraph 3, decline to make payments for medicines furnished by other parties.

PAR. 2. Articles 372 and 373 are correspondingly applicable, if the supply of medicine granted by a sick fund does not satisfy the legal demands of the sick persons.

ARTICLE 376.

PARAGRAPH 1. The pharmacies shall grant to sick funds a discount on medicines from the tariff prices for medicines. The highest administrative authority determines its rate; it may make it dependent for the individual pharmacies on a specified minimum consumption by the sick fund.

PAR. 2. The superior administrative authority determines, with due consideration of local conditions and of the usual retail prices, the maximum prices of such common medicines which may be obtained (in the retail trade) without physicians' prescriptions. These maximum prices must not exceed the amount based on paragraph 1. The highest administrative authority may decree the particulars in this connection.

PAR. 3. If the beneficiaries procure the medicines designated in paragraph 2 from a pharmacy at a price not exceeding the specified price, the superior administrative authority may decree that the sick fund shall not decline payment for the reason that it has agreed on lower prices with persons who are not owners or administrators of pharmacies.

SECTION FIVE—SUPERVISION.

ARTICLE 377.

PARAGRAPH 1. With reservation of articles 372 to 375 the local insurance office exercises the supervision over the sick funds. It extends also to the observation of the service and sickness regulations.

PAR. 2. If the appeal against a decree of the local insurance office is based on the fact that the decree has no legal foundation and injures a right of the appellant or imposes on him an unwarranted liability, the superior insurance office (decision chamber) shall decide thereon.

PAR. 3. In the case of establishment sick funds for imperial or State establishments, the highest administrative authority may transfer to other authorities the duties of the local insurance office which do not come under the competence of the judgment committee.

ARTICLE 378.

As a representative of the sick fund, the local insurance office itself or through an authorized agent may bring forward claims of an establishment sick fund against the employer resulting from his administration of the resources and keeping of the accounts.

ARTICLE 379.

PARAGRAPH 1. So long as the persons entitled to vote refuse to elect the administrative bodies of the sick fund, the local insurance office (decision committee) shall appoint the members or the substitutes.

PAR. 2. So long as the directorate, or its president, or the committee, refuse to perform the duties they are charged with, the local insurance office shall execute them itself, or through an authorized agent, at the expense of the sick fund.

SECTION SIX—RAISING OF THE FUNDS.

I. CONTRIBUTIONS.

ARTICLE 380.

The means for the sickness insurance shall be collected from the employers and the insured persons.

ARTICLE 381.

PARAGRAPH 1. The persons subject to insurance must pay two-thirds, their employers one-third of the contributions.

PAR. 2. In the case of guild sick funds the constitution may specify that the employers must pay one-half and the persons subject to insurance the other half of the contributions. Where this is specified by an amendment to the constitution, the decision requires a majority of the representatives of the employers as also those of the insured persons.

PAR. 3. Persons entitled to insure themselves voluntarily must pay the whole of the contributions.

ARTICLE 382.

The constitution may permit insured persons who temporarily draw lower wages to remain insured in their old higher class of wages, if they themselves undertake to pay the additional amount of the contributions or if the employer consents to such higher rating.

ARTICLE 383.

PARAGRAPH 1. In case of disability no contributions are to be paid for the duration of the sickness.

PAR. 2. The same is applicable during the receipt of the maternity and pregnancy benefits.

ARTICLE 384.

PARAGRAPH 1. The constitution may graduate the rates of the contribution according to the branches of industry and classes of employment of the insured persons, and provide for a higher proportion of the part paid by the employer in the case of individual establishments in so far as the risk of sickness is considerably higher.

PAR. 2. Sick funds with family benefits may collect from the insured persons with dependent families an additional contribution, which shall be specified by the constitution in a general manner. Articles 381, 382, and 385 to 403 are not applicable hereto.

PAR. 3. Where the constitution does not as a general rule allow sick benefits for Sundays and holidays, it may correspondingly raise the contributions for members for whom Sundays and holidays are working days.

PAR. 4. Provisions of this kind require the approval of the superior insurance office.

PAR. 5. If the directorate decrees higher contributions for an establishment, the employer has the right of appeal to the local insurance office. In the legal procedure the superior insurance office decides finally.

ARTICLE 385.

PARAGRAPH 1. The contributions shall be fixed in a percentage of the basic wage in such a manner that, inclusive of the other revenues, they shall be sufficient for the permissible expenses of the sick fund.

PAR. 2. The sick fund shall not collect contributions for other purposes.

PAR. 3. Where doubts arise whether the constitution or its amendment fixes the contributions according to paragraph 1, the superior insurance office shall have the contributions examined by experts before approving them. If they are not sufficient, the approval shall depend on an increase of the contributions or in a reduction of the benefits to a rate not lower than the regular benefits.

ARTICLE 386.

At the establishment of the sick fund the contributions may be fixed at not more than 4½ per cent. of the basic wage only if it is necessary in order to provide the regular benefits.

ARTICLE 387.

If the receipts of the sick fund do not cover its expenses, inclusive of the amounts for the reserve, benefits shall be reduced to a rate not lower than the regular benefits or the contributions shall be increased, by an amendment to the constitution.

ARTICLE 388.

The contributions may be increased to more than 4½ per cent. of the basic wage only for the purpose of providing the regular benefits, or on concurring decision of employers and insured persons in the committee.

ARTICLE 389.

PARAGRAPH 1. If in the case of a local sick fund contributions as high as 6 per cent. of the basic wage do not cover the regular benefits, then the contributions may be further increased only on a concurring decision of the employers and of the insured persons in the committee.

PAR. 2. Otherwise the superior insurance office shall order, with reservation of article 268, the consolidation of the fund with other local sick funds. If this should not be possible, or if notwithstanding the consolidation the contributions are not sufficient to provide the regular benefits, the union of communes must pay from its own resources the necessary assistance. As long as this is done it may place the office of president of the sick fund in the hands of a representative.

ARTICLE 390.

If in the case of a rural, an establishment, or a guild sick fund contributions to the amount of 6 per cent. of the basic wage do not cover the regular benefits, the union of communes, with reservation of article 265, paragraph 2, in the case of rural sick funds, or the employer in the case of establishment sick funds, and the guild in case of guild sick funds, must provide the necessary assistance from its own resources. As long as this is done, in the case of a rural sick fund the union of communes can place the office of president of the sick fund in the hands of a representative.

ARTICLE 391.

PARAGRAPH 1. If to maintain or restore its solvency, a sick fund must quickly increase its revenues or reduce its expenses, the local insurance office (decision committee) may temporarily provide, until new regulations as provided by the constitution are made, that as far as necessary the contributions may be increased and the benefits reduced to not lower than the regular benefits; current benefits remain undisturbed.

PAR. 2. On appeal the superior insurance office decides finally.

ARTICLE 392.

If the revenues of a sick fund exceed the expenses and the reserve has reached double the amount of its legal minimum, the contributions shall be reduced or the benefits shall be increased by means of an amendment to the constitution.

II. PAYMENT OF THE CONTRIBUTIONS.

ARTICLE 393.

The employers must pay the contributions for their employees subject to insurance on the days fixed by the constitution. The days for payment may at the most be one month apart. On the same days the persons entitled to insure themselves voluntarily must pay their contributions.

ARTICLE 394.

PARAGRAPH 1. At the time of the payment of wages, the persons subject to insurance must permit their share of the contribution to be deducted from the cash wages. Only in this manner may the employers reimburse themselves for the shares of the contribution.

PAR. 2. The highest administrative authority may specify in what manner the share of the contributions of persons subject to insurance is to be refunded from their remuneration, if the same consists only of payments in kind or is paid by third parties.

ARTICLE 395.

PARAGRAPH 1. The deductions for the share of contributions are to be divided evenly among the wage periods in which they fall.

The partial amounts may without imposing an additional burden on the insured persons be rounded off to amounts of even 10 pfennigs [2.38 cents].

PAR. 2. If deductions were not made for a wage period, they may be deducted only at the wage payment of the next wage period, if the contributions are not paid at a later time without any fault on the part of the employer.

PAR. 3. In the case of servants payments on account are not considered as wage payments.

ARTICLE 396.

PARAGRAPH 1. If the insured person is at the same time in several employment relations subject to insurance, the employers are collectively liable for the contributions.

PAR. 2. On application of one of the employers the local insurance office shall apportion the contributions.

ARTICLE 397.

PARAGRAPH 1. The contributions must be paid continuously until notice of leaving has been given according to the regulations.

PAR. 2. If the insured person leaves an employment between two pay days, and if due notice of his leaving has been given, the contributions paid in advance shall be refunded in proportion to the time.

PAR. 3. In case of establishment sick funds the contributions must be paid continuously until the termination of membership.

PAR. 4. The constitution can specify that contributions shall always be collected and refunded for full weeks.

ARTICLE 398.

PARAGRAPH 1. On application of a local, a rural, or a guild sick fund, as also on application of members of the administrative bodies of an establishment sick fund, the local insurance office (decision committee) may decree, with the right of revocation, that employers who are in arrears with the payment of contributions, and who in a process of execution have shown themselves to be bankrupt, shall pay their own share of the contributions only. The persons subject to insurance employed by them shall then themselves pay their share of the contributions on pay days.

PAR. 2. Against this decree the employer may appeal to the superior insurance office (decision chamber). It decides finally.

ARTICLE 399.

The decree must designate the employer to whom it is applicable, together with his name, residence, and place of business. He shall be notified of it in writing, as also the police authorities of his place of residence and of his place of business, if it be elsewhere. If the employer changes his residence or his place of business, the police authorities shall notify the competent authorities of his new place of residence or place of business.

ARTICLE 400.

The employer shall notify the persons subject to insurance employed by him of the decree by placarding it permanently in the work places, and at each wage payment call their attention to the fact that they themselves must pay their share of the contributions.

ARTICLE 401.

The local insurance office (decision committee) revokes the decree as soon as it has proof by the certificate of the sick fund directorate that all arrears and overdue obligations of the employer to the sick fund have been discharged.

ARTICLE 402.

So long as the decree concerning employers who in a process of execution have been shown to be bankrupt has not been issued, they must make the deduction from the wages and must pay the amount, at the latest within three days, to the sick fund entitled thereto.

ARTICLE 403.

The constitution of a local, a rural, or a guild sick fund may specify under what conditions the sick fund must demand advances from the employers.

ARTICLE 404.

PARAGRAPH 1. On application of the sick funds affected the local insurance office (decision committee) may specify that the joint places of registration shall also be pay offices to accept contributions and pay benefits.

PAR. 2. With the approval of their supervisory authorities, it may transfer to the local authorities the business of the pay offices.

PAR. 3. The local insurance office may, with their consent and with an agreement as to the costs, assist the sick funds in the collection of the contributions.

PAR. 4. The communal supervisory authority may appoint, after a hearing of the sick fund, the officials conducting the business as officials to make compulsory collections.

ARTICLE 405.

PARAGRAPH 1. If a dispute arises between the employer and his employees relating to the computation and apportionment of their share of the contributions, the local insurance office (decision committee) decides finally.

PAR. 2. If a dispute arises between an employer, or an insured person, or a person insured up to the present, or a person to be insured, and a sick fund relating to the insurance status or the liability to make, pay, or refund contributions, then the local insurance office (decision committee) shall decide and on appeal the superior insurance office shall decide finally.

PAR. 3. Final decisions as to the insurance status are binding for all authorities and courts. If the membership of an insured person has been definitely declined by all sick funds affected because they hold that he should belong to another of them, the sick fund to which he properly belongs shall be determined on application by the local insurance office (decision committee) or the superior insurance office (decision chamber) having jurisdiction of the funds, or in the absence of such by the highest administrative authority, without being bound by previous decisions.

SECTION SEVEN.—FEDERATION OF FUNDS—SECTIONS.

ARTICLE 406.

PARAGRAPH 1. On concurring decision of their committees, sick funds may combine in a federation of funds, if the seat is in the district of the same local insurance office.

PAR. 2. With the approval of the superior insurance office (decision chamber), or, if it is refused, with the approval of the highest administrative authority, a federation of funds may embrace districts or parts of districts of several local insurance offices. The superior insurance office specifies finally which local insurance office shall exercise the supervision.

ARTICLE 407.

The federation of funds may do the following in common for the affiliated funds:

1. Appoint employees and officials;

2. Prepare or conclude contracts with physicians, dental surgeons, dental assistants, owners and administrators of pharmacies, or other dealers in medicines, with hospitals, as also for the furnishing of therapeutic appliances and other necessities for the care of patients;
3. Supervise the patients according to uniform principles;
4. Establish and conduct medical institutions and convalescent homes;
5. Defray the expenses for benefits up to one-half, or within this limit defray the expenses for specified kinds of sickness or cases of sickness up to the whole amount.

ARTICLE 408.

PARAGRAPH 1. A constitution for the federation of funds shall be formulated by a concurring decision of the interested committees of the sick funds. It requires the approval of the superior insurance office. Article 324, paragraphs 2 and 4, is applicable to the refusal of the approval.

PAR. 2. Articles 4 to 34 are here correspondingly applicable.

ARTICLE 409.

The constitution must specify the following:

1. Name and seat of the federation and of the affiliated funds;
2. Object of the federation;
3. Composition, election, rights, and duties of the directorate, and of the elected committee, if there be such;
4. Determination of the preliminary budget and acceptance of the annual balance sheet;
5. Assessment of the contributions for covering the expenses of the federation, as also the assessing and accounting of the subsidy, if such be necessary;
6. Amendment of the constitution.

ARTICLE 410.

The provisions applicable to sick funds contained in articles 368 to 376 are also correspondingly applicable to federations of funds.

ARTICLE 411.

PARAGRAPH 1. At the end of the fiscal year each sick fund may withdraw from the federation if it has submitted to the directorate a notice of withdrawal at least six months in advance.

PAR. 2. The committees of the funds affected may dissolve the federation by concurring decision.

PAR. 3. The fund which has withdrawn is collectively liable for the obligations of the federation existing at the time of its withdrawal. Claims against the fund on account of these liabilities lapse in two years after the withdrawal, so far as the claim against the federation is not subject to a shorter limitation; if the claim against the federation matures only after the withdrawal, the period of limitation begins with the date when it becomes due.

ARTICLE 412.

PARAGRAPH 1. At the withdrawal of a fund or at the dissolution of the federation, each withdrawing fund receives a share of the net assets (art. 293), which corresponds for the last fiscal year to the proportion of its contributions to the total contributions to the federation. In the case of a deficit, each withdrawing fund shall contribute in the same proportion.

PAR. 2. Other arrangements may be made by the constitution or by mutual agreement.

ARTICLE 413.

PARAGRAPH 1. The local insurance office has the supervision of the federation. Articles 377 to 379 are here correspondingly applicable.

PAR. 2. Articles 349 to 361 are correspondingly applicable to the employees of the federation; also articles 363 and 365 to the administration of the resources. The Federal Council may specify how far articles 366 and 367 are applicable.

PAR. 3. The local insurance office (decision committee) decides in case of a dispute between the federation and the different funds in regard to federation relations.

ARTICLE 414.

For combinations of funds of other kinds, to promote the general objects of sickness relief, the resources of the funds shall only be used with the approval of both groups in the directorate. With the approval of the highest administrative authority, such combinations of funds may also undertake some of the special duties designated in article 407.

ARTICLE 415.

With the approval of the superior insurance office, sick funds may establish sections for specified groups of their members or for specified districts and assign to them a part, but at the most two-thirds of the revenues and benefits. Particulars relating to organization, administration, duties, and competence, shall be specified in the constitution.

SECTION EIGHT.—SPECIAL OCCUPATIONS.

I. GENERAL PROVISION.

ARTICLE 416.

The provisions of this book are applicable together with the special provisions of—

Articles 417 to 434, to persons employed in agriculture;
Articles 435 to 440, to servants;
Articles 441 to 458, to persons employed temporarily;
Articles 459 to 465, to persons employed in itinerant trades;
Articles 466 to 493, to persons engaged in home industries and to their home-working employees;
Article 494, to apprentices.

II. AGRICULTURE.

ARTICLE 417.

The following persons are considered as employed in agriculture:

1. If they are employed in agricultural subsidiary establishments (Arts. 918 to 921).
2. If they are employed in agricultural establishments which are subsidiary establishments of an industrial establishment, and according to article 540 are not insured in an industrial accident association (*Berufsgenossenschaft*), by the constitution of the same.

ARTICLE 418.

PARAGRAPH 1. Whoever in case of sickness has a legal claim for relief against his employer which is equivalent to the benefits of the competent sick fund shall on application of the employer be exempted from the insurance obligation.

PAR. 2. The prerequisite is that—

1. The employer defrays the entire relief from his own resources;
2. His solvency is assured;

3. That he makes application for all of his agricultural employees in so far as they are obligated by contract for at least two weeks' regular work.

PAR. 3. Article 175 is hereby applicable with the provision that the superior insurance office in place of the local insurance office decides finally.

ARTICLE 419.

PARAGRAPH 1. The exemption is in force only for the duration of the labor contract. It ceases earlier if the employer registers all his exempt employees at the sick fund, or if the local insurance office itself, or on application of an exempt employee, determines that the employer is insolvent. The sick fund is not liable for benefits in cases of insurance which have already occurred when the exemption expires or which occur in the case of article 214 in the first three weeks after this lapse; this does not affect the claim of the person exempted against his employer.

PAR. 2. Article 313 is applicable to the persons exempted, but shall be construed as if these persons had been members of the sick fund up to the expiration of the exemption; articles 195 to 200, and 224, are here also correspondingly applicable.

ARTICLE 420.

PARAGRAPH 1. On application of the employer the contributions to the fund shall be correspondingly reduced for the duration of the labor contract, and the claim of the insured persons to a pecuniary benefit shall cease, if it is shown that at least—

1. The labor contract has been concluded for one year;
2. The insured persons are in receipt—
   Either for the whole year, of payments in kind equivalent to 300 times the daily pecuniary benefit provided by the constitution,
   Or for each working day, of a payment equivalent to this pecuniary benefit;
3. That they have a legal right to these benefits for the duration of the labor contract.

PAR. 2. If the insured person is sick and incapacitated for work beyond the duration of the labor contract, then his claim to a pecuniary benefit shall again come into force. The employer must refund to the sick fund the pecuniary benefit. Article 28 is correspondingly applicable.

PAR. 3. The contributions shall be reduced by the constitution with the approval of the superior insurance office, according to the relation of the pecuniary benefit to the value of the other benefits of the fund.

ARTICLE 421.

With the approval of the superior insurance office, the constitution may reduce the pecuniary benefit for insured persons who according to their labor contract are entitled in cases of sickness to benefits of less amount than those designated in article 420, paragraph 1, number 2; the contributions shall be correspondingly reduced.

ARTICLE 422.

PARAGRAPH 1. So far as the employer does not grant the relief (arts. 418 and 419), the sick fund shall on application of the person exempted grant the benefits provided by the constitution; if the employer does not furnish the benefits required by the contract (arts. 420 and 421), the fund must pay a pecuniary benefit to the sick member on application.

PAR. 2. The employer must reimburse the sick fund for what it has paid. Article 28 is correspondingly applicable.

PAR. 3. In disputes over the claim to reimbursement (par. 2, and art. 420, par. 2), the local insurance office decides in judgment procedure.

ARTICLE 423.

PARAGRAPH 1. With the approval of the superior insurance office, the constitution of a rural sick fund may specify that insured persons, who on the basis of the imperial insurance have been granted a permanent yearly pension amounting to 300 times the daily pecuniary benefit provided by the constitution, shall receive no pecuniary benefit.

PAR. 2. The contributions of these members shall be correspondingly reduced (art. 420, par. 3).

PAR. 3. With the approval of the superior insurance office, the constitution may specify a lower basic wage than the local wages for employees who are partially and permanently disabled.

ARTICLE 424.

With the approval of the superior insurance office, and as a general measure or for specified groups of insured persons, the constitution of a rural sick fund may reduce the pecuniary benefit to one-fourth of the local wages for the period from October 1 to March 31, or for a part of this period; it must reduce the contributions for the same period correspondingly or increase the pecuniary benefit within the limits permitted for the remainder of the period. The same is correspondingly applicable to house money.

ARTICLE 425.

The provisions of articles 420 to 423 applicable to the pecuniary benefit are also applicable to the other cash benefits of the fund with the exception of the funeral benefit.

ARTICLE 426.

For the territory of the federal State or for parts of it the highest administrative authority may permit the rural sick funds to introduce extended sick treatment for sick persons incapacitated for work.

ARTICLE 427.

The constitution may contain such provisions only if in the district of the rural sick fund—

1. The productive capacity of the agricultural employees or their employers would be impaired otherwise;
2. The presence of a sufficient number of hospitals and similar medical institutions assures the execution of the extended sick treatment.

ARTICLE 428.

Such provision requires the approval of the superior insurance office; in districts in which agricultural employees are already insured according to the general provisions of this book or according to the sickness insurance law the approval required is that of the highest administrative authority.

ARTICLE 429.

Extended sick treatment consists of medical treatment and maintenance in a hospital or a similar medical institution in the place of the care of patients and of the pecuniary benefit. This extended benefit is considered as a regular benefit.

ARTICLE 430.

PARAGRAPH 1. A disabled sick person need not be removed to a medical institution if, according to a medical opinion, it would not promote his cure.

PAR. 2. If through no fault of his own the disabled sick person is not taken to a medical institution, then the rural sick fund must

grant the legal sick relief. The constitution may specify that under the conditions mentioned in articles 420 and 421 the pecuniary benefit shall not be paid entirely or partly, but shall be credited to the contributions of the insured persons which will become due at the next time of payment.

ARTICLE 431.

As long as the sick person declines hospital treatment in a case where such treatment requires his own consent, according to article 184, he has only a claim to medical treatment and to half the pecuniary benefit if he has up to the present supported his relatives either wholly or principally with his earnings, unless the constitution provides otherwise.

ARTICLE 432.

PARAGRAPH 1. The constitution shall specify in the case of extended sick treatment whether and in what amount house money is to be granted in addition to the hospital treatment.

PAR. 2. Where the constitution prescribes extended sick treatment it may at the same time fix a maximum funeral benefit of 30 marks [$7.14].

PAR. 3. The constitution may confine the granting of extended sick treatment to cases of insurance occurring during unemployment and within three weeks after membership has ceased.

PAR. 4. It shall correspondingly reduce the contributions for the insured persons who in case of sickness are entitled only to the extended sick treatment.

ARTICLE 433.

If the constitution of a rural sick fund contains specifications according to articles 423 to 432, the constitutions of agricultural establishment sick funds which have their seat in the district of the rural sick fund may specify the same regulations.

ARTICLE 434.

Articles 503 and 517 to 520 are not applicable to agricultural employees with exception of the gardeners and of industrial workmen temporarily employed in agriculture; the Federal Council shall specify what employments shall be considered as temporary.

III. SERVANTS.

ARTICLE 435.

Articles 418, 419, 422, and 426 to 434 are also applicable to the insurance of servants; however, the introduction of the extended sick treatment is not restricted by the conditions mentioned in article 427, paragraph 1, and the superior insurance office is always the competent office for the approval. On application of the employer or of the insured person, removal to a medical institution shall not occur if, according to a medical opinion, it is not necessary.

ARTICLE 436.

The employer may deduct the pecuniary benefit from the wages which he must continue to pay to the servant during the sickness.

ARTICLE 437.

Even where the constitution does not provide for extended sick treatment, the sick fund must grant it on application of the employer or of the servant, to a servant residing in the household, if the sickness is contagious; or if because of the nature of the sickness he can not be treated or taken care of in the household or this can be done only with considerable inconvenience to the employer.

ARTICLE 438.

PARAGRAPH 1. In a dispute between the employer and the sick fund in regard to this kind of obligation (art. 437) the local insurance office decides finally.

PAR. 2. On its application the local insurance office may exempt the sick fund from the extended sick treatment in cases where without fault on the part of the sick fund such treatment can not be provided.

ARTICLE 439.

If servants are also employed in the establishment or in another business undertaking of the employer, such employment, so far as it is not by itself exempt from insurance according to article 168, shall be determinative for their insurance and for the claims against the employer which they have in cases of sickness according to the law or constitution.

ARTICLE 440.

PARAGRAPH 1. The State government may specify that servants are exempt from insurance according to this law if, at its publication, relief provision in case of sickness has been provided for them by State law.

PAR. 2. In extent and duration this relief must be at least equivalent to the regular benefits of the sick funds, or must be made equivalent within six months after the coming into force of this law.

PAR. 3. The contributions collected for a servant in this connection must not be higher than the shares of contribution that he would have to pay according to this law.

IV. TEMPORARY EMPLOYMENT.

ARTICLE 441.

The employment is defined as temporary if by its nature it is restricted to less than one week, or if it is restricted by the labor contract in advance.

ARTICLE 442.

PARAGRAPH 1. Persons employed temporarily who are not exempt from insurance according to article 168 shall be insured in the general local sick fund, or if they are principally employed in agriculture in the rural sick fund of their place of residence.

PAR. 2. The sick fund must keep an alphabetical members list of such persons and must keep it up to date.

PAR. 3. The membership in the sick fund begins with the registration in this list.

ARTICLE 443.

As soon as a sick fund is informed that a temporarily employed person of its district does not belong to a sick fund, although subject to insurance, it must itself register such employee.

ARTICLE 444.

PARAGRAPH 1. Persons subject to insurance must report themselves for registration.

PAR. 2. The local insurance office, the communal and the police authorities, the place of issue of receipt cards (art. 1419), as well as the administrative bodies and the employees of the insurance carriers, must notify the proper sick fund of every person subject to insurance who is temporarily employed and who is not already a member of a sick fund.

PAR. 3. The highest administrative authority may regulate the particulars concerning this duty.

ARTICLE 445.

The sick fund may summon persons employed temporarily to decide upon their insurance obligation and compel them by a fine of not more than 10 marks [$2.38] to comply with the summons.

ARTICLE 446.

The person registered continues to be a member also during the time in which he is not temporarily employed for compensation.

ARTICLE 447.

PARAGRAPH 1. The insured person shall on his resignation be taken off the list if he produces proof that he has become a member of another fund, or that he has given up the temporary employment and has done so not merely temporarily.

PAR. 2. He shall also be taken off the list if the sick fund establishes these facts in any other manner, or if it learns that the insured person has died or has moved to the district of another sick fund.

PAR. 3. A person who has been taken off the list may continue to be a member according to article 313. The constitution shall specify the particulars concerning contributions and benefits.

ARTICLE 448.

PARAGRAPH 1. If the insured person again resigns from the other sick fund (art. 447), or again takes up the temporary employment, he shall immediately apply again for registration in the list.

PAR. 2. The sick fund shall supervise the insurance status of such persons.

ARTICLE 449.

PARAGRAPH 1. If the insured person has been registered by an employer at his sick fund according to article 317, then this fact is to be noted on the list.

PAR. 2. Membership based on this registration continues the earlier membership without interruption.

PAR. 3. After notice of leaving has been given through the employer, the notation on the list shall be canceled.

ARTICLE 450.

PARAGRAPH 1. The contributions and the benefits shall be established by the constitution in each case according to the local wage rates; in such case it may increase supplementary charges the rates of local wages for individual groups of persons temporarily employed. The approval of the superior insurance office is required for the rates so established.

PAR. 2. Paragraphs 2 and 3, of article 423, may be applied.

PAR. 3. The sick fund shall enter these contributions and benefits in separate accounts.

PAR. 4. The persons employed temporarily must themselves pay their share of the contribution (art. 381, par. 1).

PAR. 5. They have a claim to additional benefits of their sick fund provided by the constitution only in so far as the constitution so specifies.

ARTICLE 451.

PARAGRAPH 1. The constitution may specify that persons employed temporarily shall have a claim to sick-fund benefits only after a waiting term of not more than 6 weeks.

PAR. 2. If an earlier membership existed not longer than 26 weeks previous, then its duration shall be included in the waiting term.

ARTICLE 452.

PARAGRAPH 1. If a person employed temporarily before his sickness, has not paid his share of the contributions for more than 8

weeks during the last 26 weeks, he shall receive only medical treatment; the funeral benefit may not exceed 30 marks [$7.14].

PAR. 2. The same is applicable to an insured person who has been a member less than 26 weeks, if he has not paid his share of the contributions for more than one-fourth of the duration of the insurance.

ARTICLE 453.

At the end of each quarter the union of communes must pay to the sick fund the total amount of the shares of the contributions of the employers, for which an account is submitted.

ARTICLE 454.

PARAGRAPH 1. The union of communes may assess this amount in such a manner that it is paid either by all the inhabitants of the sick-fund district, or separately by the local sick funds and the rural sick funds of the district according to the number of inhabitants affected.

PAR. 2. Inhabitants who are accustomed to employ persons temporarily either in large numbers, or for long periods of time, shall be assessed at a higher rate in such cases.

ARTICLE 455.

PARAGRAPH 1. With the approval of the union of communes and of the superior insurance office, the constitution may specify that persons temporarily employed shall not pay any share of the contributions.

PAR. 2. In such a case the sick fund shall grant them only the benefits described in article 452, paragraph 1.

ARTICLE 456.

PARAGRAPH 1. The State government may specify how far an approval is necessary for decisions of the union of communes made according to articles 454 and 455.

PAR. 2. It may specify the legal procedure permissible against the assessment (art. 454).

ARTICLE 457.

In their capacity as employers of temporary employees, as well as persons temporarily employed who do not pay any contributions according to article 455, they are neither entitled to hold office in the sick fund nor entitled to vote.

ARTICLE 458.

PARAGRAPH 1. For the federal State or for parts of it, the State government may regulate the registration and payment of contributions for persons temporarily employed in other ways.

PAR. 2. The State government may also decree that persons temporarily employed shall be insured according to the general provisions of this book, though if they are employed in agriculture, then according to the provisions specially applicable thereto, if the State government itself or a statute of the union of communes or the constitution of the sick fund, takes care that the insurance, especially the registration, shall be administered properly and that the contributions shall be correctly paid.

V. ITINERANT TRADES.

ARTICLE 459.

PARAGRAPH 1. The employer, who must have an itinerant trade license, must register the persons employed in his itinerant establishment, if he intends to take them with him from place to place; he must, however, register only their number and have this number made members in the rural sick fund of the place where he applied for the license from the police authority.

PAR. 2. Employees in excess of the number registered and for whom he has requested a permit only after the receipt of the license according to article 62 of the Industrial Code must be registered through the intervention of the authority competent for this permit.

ARTICLE 460.

PARAGRAPH 1. At the registration the employer must pay in advance the contributions either for the period up to the expiration of the itinerant trade license, or for a shorter period, with the permissions of the directorate of the fund.

PAR. 2. If the license or the permit (art. 459, par. 2) is revoked or the establishment shuts down otherwise, then the directorate on application shall refund the excessive contributions; the directorate shall also make a refund for the full calendar weeks, for which it can be shown that the employer did not take the persons with him.

ARTICLE 461.

PARAGRAPH 1. In the case of article 459, paragraph 1, the sick fund shall certify according to the model form determined by the federal council, the contributions which have been received or postponed, together with a statement of the basic wage and of the weekly contribution. This certificate is to be submitted to the police authorities when application is made for the itinerant trade license.

PAR. 2. In the case of article 459, paragraph 2, the contribution shall be paid to the authority there designated, and shall be transmitted by them to the competent rural sick fund.

PAR. 3. The itinerant trade license may be granted only if the certificate is produced, the permit only if the contributions have been paid.

PAR. 4. The basic wage and the weekly contributions shall be stated on the itinerant trade license.

ARTICLE 462.

PARAGRAPH 1. The insured person shall receive the regular benefits of the sick funds. Article 382 is not applicable to them. The constitution may specify that the insured person on his own application shall also have a claim to the additional benefits of the sick fund as long as the persons to whom they are to be granted remain in the district of the sick fund.

PAR. 2. If the sick fund grants more to its other members, it may correspondingly reduce the contributions of persons employed in itinerant trades.

ARTICLE 463.

PARAGRAPH 1. For the periods which are not more than one month back the employer may deduct from the wages of the insured persons two-thirds of the contributions paid by him for them.

PAR. 2. The local insurance office of the place where they are staying decides in a dispute as to the deductions.

ARTICLE 464.

A person who carries on an itinerant trade for another (art. 60d, par. 2, of the Industrial Code) shall have the rights and duties of the employer according to articles 459 to 463.

ARTICLE 465.

PARAGRAPH 1. The Federal Council may specify the particulars for the execution of articles 459 to 464.

PAR. 2. It may specify how far persons who are employed by an employer without itinerant trade license in his itinerant trade establishment (art. 59 of the Industrial Code) and whom he takes with him from place to place, are subject to insurance, and it may regulate their insurance otherwise than as stated in articles 459 to 464.

VI. HOME-WORKING INDUSTRIES.

ARTICLE 466.

PARAGRAPH 1. Persons engaged in home-working industries, who are not exempt from insurance according to article 168, shall, so far as the law does not otherwise prescribe or permit, be insured in the rural sick fund in whose district they have their own working place, without regard to the seat of the establishment of the person who gives them the order.

PAR. 2. Their home-working employees shall be insured in the same fund.

ARTICLE 467.

The Federal Council may specify under what conditions persons engaged in home-working industries, to whom a yearly total minimum income of 2,500 marks [$595] is assured, may on their application, be exempted from insurance as regards their own person.

ARTICLE 468.

PARAGRAPH 1. Article 442, paragraphs 2 and 3, and articles 443 to 449, are correspondingly applicable to persons engaged in home-working industries and their home-working employees (persons engaged in home-working industries subject to insurance).

PAR. 2. Without prejudice to these provisions, persons engaged in home-working industries who regularly employ, apart from the members of the family in the household, at least two persons subject to insurance as home workers, shall register themselves and all employees in the sick fund for the purpose of entry in the list according to articles 317 to 319, and shall withdraw the names in the same manner.

ARTICLE 469.

The resources for the sickness insurance shall be raised partly by subsidies from those persons on whose order and for whose account the work is done on the home-work system (subsidies of the persons giving the order), partly from the persons engaged in home-working industries themselves and partly from their home-working employees (contributions).

ARTICLE 470.

PARAGRAPH 1. The subsidies of the persons giving the order shall be based only on the wages which they pay to the persons engaged in home-working industries for the delivered work; no attention shall be paid to the facts as to whether the individual person engaged in home-working industries belongs to a sick fund, to which sick fund he belongs, or what contributions he pays for himself and his employees in the fund.

PAR. 2. The value of raw materials and supplies which the person engaged in a home-working industry has furnished, may be left out of consideration in computing the wages.

ARTICLE 471.

The subsidies of the persons giving the order shall be computed uniformly for all industry branches and for the territory of the Empire in such a manner that in any one year their total amount shall cover half of the total cost which would accrue to the rural sick funds if they should grant the regular benefits with the local wages as the basic wage, and if all persons engaged in home-working industries subject to insurance should belong to them.

ARTICLE 472.

PARAGRAPH 1. The subsidies of the persons giving the order are fixed up to December 31, 1914, at 2 per cent. of the wages paid.

PAR. 2. Thereafter the Federal Council shall determine them for four-year terms after a hearing of the accounting bureau of the Imperial Insurance Office; for the first 10 years after the coming in force of this law the Federal Council is not restricted to these periods.

ARTICLE 473.

PARAGRAPH 1. During the first week of each month, the person giving the order must transmit to the rural sick fund of the seat of his establishment a list of the persons engaged in home-working industries employed during the past month.

PAR. 2. Where no rural sick fund exists for the seat of the establishment of the person giving the order, the list is to be transmitted to the general local sick fund.

ARTICLE 474.

PARAGRAPH 1. In the list there shall be stated the name and the seat of the establishment of the person engaged in home-working industries as well as the amount of the earnings.

PAR. 2. If the value of the raw and other materials furnished by the person engaged in home-working industries have been included, then the quantity and value of these materials shall also be given as well as the amount actually paid after deduction of their value.

ARTICLE 475.

PARAGRAPH 1. On application of the person engaged in home-working industries, the local insurance office competent for his residence determines finally as to the value of the raw and other materials.

PAR. 2. For industries in which home work is customary in the district, the local insurance office shall itself determine the average value of raw and other materials and verify such valuations from time to time. On appeal the superior insurance office decides finally. On application, the local insurance office communicates the average value to the person engaged in home-working industries, the person who gives the order, and to his sick fund (art. 473).

ARTICLE 476.

This fund must communicate the list of persons engaged in home-working industries not insured with itself, to the fund in which they are designated as members. In case of doubt the list shall be communicated to the proper fund by the local insurance office to which the working place of the person engaged in home-working industries belongs.

ARTICLE 477.

PARAGRAPH 1. When transmitting the lists, the person who orders the work shall pay the subsidies due. The computed amounts are to be rounded off to even pfennigs.

PAR. 2. Until the time of the mutual balancing of accounts (art. 492, par. 2) the fund must keep in custody the subsidies paid to it for the account of other funds.

ARTICLE 478.

PARAGRAPH 1. The fund to which the person engaged in home-working industries belongs, must credit him with the subsidies paid for him according to the lists.

PAR. 2. If subsidies have been paid by the persons giving the order for noninsured persons, or if for other reasons the subsidies cannot be credited to an insured person, the fund must use them to cover any deficits which arise out of the insurance of persons subject to insurance in home-working industries.

PAR. 3. If the result of the last three fiscal years shows that a considerable surplus is available, it must be used for the purpose of reducing the contributions or of increasing the benefits for persons subject to insurance in home-working industries.

ARTICLE 479.

PARAGRAPH 1. The provisions relating to disputes over contributions (art. 405) are correspondingly applicable to disputes over subsidies.

PAR. 2. The persons giving the order have the status of employers for the purposes of articles 137 to 140.

ARTICLE 480.

PARAGRAPH 1. The constitution shall determine specifically the contributions which persons engaged in home-working industries must pay for themselves and for their home-working employees, as well as the sick benefits for these persons.

PAR. 2. The local wages serve as the basic wage.

ARTICLE 481.

PARAGRAPH 1. The contributions are to be computed in such a manner that, together with the subsidies of the persons who give the order, they shall cover the cost which accrues to the fund from the insurance of its members engaged in home-working industries.

PAR. 2. As long as the amount of the subsidies can not be approximately determined, the contributions of the members engaged in home-working industries are to be computed in such a manner that they shall cover one-half of the cost which would accrue to the sick fund by granting the regular benefits to these members.

PAR. 3. The general provisions relating to contributions are correspondingly applicable to the contributions which the person engaged in home-working industries has to pay for himself and his home-working employees.

ARTICLE 482.

PARAGRAPH 1. The sick benefits shall consist of a pecuniary benefit in addition to medical treatment.

PAR. 2. The amount of the pecuniary benefit is based on the amount of the subsidies of persons giving orders which have been credited to the person engaged in home-working industries. Unless the constitution specifies otherwise, the pecuniary benefit in such case stands in the same relation to the legal pecuniary benefit as the amount of the subsidies credited during the last fiscal year to the person engaged in home-working industries stands to that of all the contributions, which the person engaged in home-working industries has paid during this period; higher benefits than those prescribed by the constitution shall not be granted.

PAR. 3. If the insurance has been in force only a short time then the contributions of this period only shall serve as basis.

ARTICLE 483.

With the approval of the superior insurance office the constitution may specify how far the pecuniary benefit shall be reduced or withheld, if the person engaged in home-working industries is in arrears with his contributions.

ARTICLE 484.

PARAGRAPH 1. Whatever is applicable to the pecuniary benefit is also applicable to the other cash benefits of the fund, but with the exception of the funeral benefit.

PAR. 2. With the approval of the superior insurance office the constitution may graduate the funeral benefit according to article 482, paragraphs 2 and 3.

ARTICLE 485.

PARAGRAPH 1. On his application the fund shall permit the person engaged in home-working industries to pay double the amount of the contributions. The constitution may specify the particulars, such as when he may make the application and withdraw it. The share of the contributions of his home-working employees is not changed in such cases.

PAR. 2. In this case the subsidies paid in for him shall be paid over or credited to the person engaged in home-working industries. He and his employees subject to insurance are entitled to the full benefits which the constitution prescribes for insured persons engaged in home-working industries.

PAR. 3. The subsidies shall also be paid over or credited to persons engaged in home-working industries who are insured on account of other employment subject to insurance.

ARTICLE 486.

PARAGRAPH 1. If persons engaged in home-working industries are permanently employed only by the same person giving the order, with their consent he may also pay their contributions.

PAR. 2. He may then collect the contributions from the person engaged in home-working industries in the same manner as an employer collects the share of contributions from insured persons. The payment of the earnings is in such a case considered as the same as the payment of wages.

ARTICLE 487.

Articles 426 to 432 are here correspondingly applicable.

ARTICLE 488.

PARAGRAPH 1. If when this law comes into force the insurance of persons engaged in home-working industries is already regulated by statutory provisions for a given district or an industry, then the highest administrative authority may on application of the communes or of the union of communes affected permit the statutory provisions to remain in force.

PAR. 2. The approval is conditional upon the fact that the person giving the order and the person engaged in home-working industries have their establishment seat in the district of the local insurance office, or in the larger district determined by the highest administrative authority according to local requirements, and that the benefits granted to persons engaged in home-working industries are at least equivalent to those granted by this law.

PAR. 3. Amendments to the statutory provisions require the approval of the highest administrative authority.

PAR. 4. Subsidies received from other persons giving orders to one engaged in home-working industries shall be paid or credited to him.

ARTICLE 489.

PARAGRAPH 1. The union of communes may by statute exempt the person subject to insurance engaged in home-working industries from the obligation of contribution and assume itself the costs, in so far as they are not covered by the subsidies of the persons giving the order; article 485, paragraphs 1 and 2, is then applicable.

PAR. 2. In such a case it may be specified that the fund shall grant to these persons subject to insurance only the benefits designated in article 452.

PAR. 3. The statute must have the approval of the superior insurance office (decision chamber), and the provisions of paragraph 2 must have the approval of the highest administrative authority.

ARTICLE 490.

PARAGRAPH 1. The State government may decree that in districts in which the persons engaged in home-working industries are unable to pay contributions, the union of communes shall assume the costs designated in article 489, paragraph 1.

PAR. 2. The insured persons engaged in home-working industries shall then receive only the benefits specified in article 452; article 485, paragraphs 1 and 2, is not applicable.

ARTICLE 491.

PARAGRAPH 1. Where persons engaged in home-working industries are employed by intermediaries, such as persons who give the work out, factors, or subcontractors (*Zwischenmeister*) on the order of a third party, then the latter is considered as the person who gives them the order.

PAR. 2. The Federal Council may transfer to the intermediaries either all or part of the duties of the person who gives the order; the person who gives the order must refund to them the subsidies already paid.

ARTICLE 492.

PARAGRAPH 1. The Federal Council shall specify the manner in which the provisions relating to the insurance of persons engaged in home-working industries shall be executed.

PAR. 2. It shall especially regulate the manner in which the sick funds shall account for the subsidies among each other. It may order the participation of the accounting bureau of the Imperial Insurance Office in the accounting. It shall draw up the model forms for the lists and shall specify the bases which must be submitted for the reexamination of the subsidies.

ARTICLE 493.

The Federal Council may specify the manner in which German persons who give orders to foreign persons engaged in home-working industries may be drawn on for contributions for the sickness insurance of persons engaged in home-working industries which they would have to pay if they employed Germans, and how these payments are to be used. It may punish contraventions of these provisions with a fine of not more than 300 marks [$71.40].

VII. APPRENTICES.

ARTICLE 494.

PARAGRAPH 1. No pecuniary benefit shall be granted to any class of apprentices who are employed without compensation.

PAR. 2. The contributions shall be correspondingly reduced.

SECTION NINE.—MINERS' SICK FUNDS.

ARTICLE 495.

PARAGRAPH 1. In their constitutions the miners' sick funds must grant to their members at least the regular benefits of the local sick funds.

PAR. 2. With the approval of the supervisory authority, they may pay the pecuniary benefit otherwise than weekly, but in no longer intervals than semimonthly.

ARTICLE 496.

Miners' sick funds may collect an entrance fee from members who can prove that they have already belonged to another sick fund, only if more than 26 weeks have elapsed between the resignation and admission.

ARTICLE 497.

An application for exemption from compulsory insurance according to article 173 shall require the consent of the majority of votes both from the group of employers in the directorate and from the group of the insured persons.

ARTICLE 498.

PARAGRAPH 1. Articles 206 and 383 are applicable to the members.

PAR. 2. If the constitution specifies a waiting term for the claim to additional benefits, then members who leave for the purpose of performing their term of service in the Army or Navy may interrupt this waiting term for the duration of the service period, as well as for a maximum of 26 weeks additional. No new entrance fee shall be collected from them in this case.

ARTICLE 499.

PARAGRAPH 1. The provisions of articles 119, 223, paragraphs 2 and 3, relating to transfer, assignment, attachment, and charging up of insurance claims, are applicable to all benefits which the miners' associations or sick funds must pay according to this law or to the State laws.

PAR. 2. The highest administrative authority shall specify which authority is competent for the approval according to article 119, paragraph 2.

ARTICLE 500.

PARAGRAPH 1. Articles 211 to 214, 219 to 222, 224, 313, and 314 are here correspondingly applicable.

PAR. 2. If the place of residence of a sick person belongs to the territory of a miners' sick fund, the latter must grant the preliminary relief, urgent cases excepted.

ARTICLE 501.

PARAGRAPH 1. The representatives of the insured persons in the general meeting (miners' elders) in the directorate of the miners' sick funds, miners' associations, and miners' funds, must be elected by secret ballot. Election according to the principles of proportionate representation is permissible.

PAR. 2. Invalid miners may be elected to the general meeting and to the directorate of a miners' sick fund, even if they pay contributions to the sick fund as voluntary members.

ARTICLE 502.

PARAGRAPH 1. Articles 368 to 376 are here applicable.

PAR. 2. In other cases, so far as this law does not provide otherwise, the provisions of State laws relating to miners' associations and miners' funds remain unaffected.

SECTION TEN.—SUBSTITUTE FUNDS.

I. AUTHORIZATION.

ARTICLE 503.

PARAGRAPH 1. Mutual insurance associations to which a certificate as a registered aid fund according to article 75a of the sickness insurance law has been granted before April 1, 1909, shall on their application be admitted as substitute funds for the district and class of their members subject to insurance: *Provided*, That they have a permanent membership of more than 1,000 members, and that their constitution meets the requirements of articles 504 to 513.

PAR. 2. On application of such an insurance association the highest administrative authority of its seat may reduce the minimum membership to 250.

ARTICLE 504.

PARAGRAPH 1. The admission of persons subject to insurance may be made dependent on participation in other societies or associations only if the constitution at the time of the establishment of the association contained such a provision applicable to all the members.

PAR. 2. In other respects members shall not be obliged to perform acts or to refrain from actions which do not affect the object of the association.

ARTICLE 505.

PARAGRAPH 1. Persons subject to insurance who belong to the class of persons for whom according to its constitution the association was established shall, with reservation of article 504, paragraph 1, not be denied admission; in particular, admission shall not be made dependent on their age or state of health.

PAR. 2. The association may, however, subject those who apply for admission to a medical examination, and refuse the admission of persons who are sick at the time.

PAR. 3. The association may reject persons subject to insurance who apply for admission if they are in debt to the substitute fund for contributions from a former membership or if they have a claim to benefits from some other insurance which are at least equal to the benefits of their sick fund.

ARTICLE 506.

PARAGRAPH 1. If not later than January 1, 1911, the association has graduated the contributions of persons subject to insurance, according to their age at the time of admission, then it may retain these grades and change them with the approval of its supervisory authority. But the highest grade must not exceed the lowest by more than was the case on the date specified, and at the most by one-half. The association may increase the contributions of persons subject to insurance according to their state of health at the time of admission, but such increase shall not be greater than one-fourth of the regular rate.

PAR. 2. The association shall not graduate its benefits according to the age or state of health of those who join.

ARTICLE 507.

PARAGRAPH 1. The person subject to insurance shall be granted benefits at least equal to the regular benefits of the sick funds according to the basic wage which is the standard in his sick fund. The association may restrict persons subject to insurance to the lowest class of membership which meets these requirements.

PAR. 2. Benefits for persons subject to insurance may be reduced only to the same extent as in the case of the sick funds. The association must draw up sickness regulations (art. 347, par. 1) for them; the regulations must have the approval of the local insurance office competent for its seat.

PAR. 3. The association may increase the pecuniary benefit by one-fourth of the basic wage (par. 1) to persons subject to insurance who do not make use of the right of article 517, paragraph 1.

ARTICLE 508.

The association may grant to its members and their dependents without restriction as to duration or amount all the benefits which sick funds of their kind are permitted to grant by article 179. The benefits to survivors of deceased members shall not exceed ten times the weekly benefit to which the deceased person was entitled.

ARTICLE 509.

PARAGRAPH 1. The resources of the association may be used only for the benefits provided by the constitution, for the accumulation

of the reserve, for the costs of administration, and for the general purpose of the prevention of sickness.

PAR. 2. It is also permissible to use them for the attendance at meetings which shall serve the legal purposes of the sickness insurance and of the substitute funds.

PAR. 3. The association shall not collect contributions for other purposes from the persons subject to insurance.

PAR. 4. It may only undertake matters which the law relating to registered aid funds (Reichs-Gesetzblatt 1876, p. 125, and 1884, p. 54) permit, or which this book [book two] permits.

ARTICLE 510.

Only members who are of age and in possession of their civic rights may belong to the directorate or supervisory council.

ARTICLE 511.

After their admission the association may not exclude members or treat them less favorably in regard to contributions or benefits because they have passed a certain age limit or because their state of health has undergone a change.

ARTICLE 512.

Members who have belonged to it for two years shall not be excluded because they have resigned from a society or association, or are excluded therefrom. If it excludes a member before the expiration of two years for such a reason, it shall refund him not less than the entrance fee, if he has paid such.

ARTICLE 513.

The association may permit the resignation of persons subject to insurance only at the close of the calendar quarter, regardless of the fact that they may have changed their employment in the meantime.

ARTICLE 514.

PARAGRAPH 1. The superior administrative authority of its seat shall decide on the application of an association for authorization to act as a substitute fund. The Imperial Insurance Office shall decide in case its district extends beyond the borders of the federal State.

PAR. 2. If the application is approved, the association receives a certificate to that effect and it shall add to its name the words "substitute fund."

PAR. 3. The authorization may be refused only if the association does not meet the requirements of the provisions of articles 503 to 513. The reasons for refusal shall be stated.

ARTICLE 515.

PARAGRAPH 1. The certification of the superior administrative authority must be published by the newspaper designated for its official announcements and the certification of the Imperial Insurance Office by the Reichsanzeiger.

PAR. 2. As proof of authorization a printed copy of the constitution of the association may be used and it shall contain the certification, in addition to the year of publication, number, and page number, of the newspaper.

ARTICLE 516.

PARAGRAPH 1. If an authorized association does not meet, or no longer meets the conditions of authorization, and in spite of the request of its supervisory authority does not remedy this defect within the specified time limit which must be not less than six weeks, then the certification shall be revoked.

PAR. 2. It shall also be revoked if the association increases the group of persons subject to insurance who may belong to the association.

PAR. 3. The reasons for revocation shall be communicated. It shall be published in the same manner as the certification.

II. RELATION TO SICK FUNDS.

ARTICLE 517.

PARAGRAPH 1. In the case of persons subject to insurance who are members of a substitute fund, their rights and duties as members of that sick fund to which they belong shall be suspended if they apply therefor; they shall have no claim to benefits of the sick fund and shall neither hold office nor vote.

PAR. 2. Their employers have to pay only their own share of the contribution to the sick fund; the share of the insured person is not paid.

ARTICLE 518.

PARAGRAPH 1. If the class from which the association recruits its members is composed principally of insured persons of the class specified in article 165, paragraph 1, Nos. 3 to 5, or of office employees, brick makers, or other insured persons, in whose occupations a frequent change of employment from one place to another is customary, the Imperial Insurance Office may, on application of this substitute fund, decree, with the right to revoke the decree, that the sick funds shall transmit to the substitute fund four-fifths of the shares of contributions paid to them according to article 517, paragraph 2, by the employers for its members.

PAR. 2. The Federal Council may specify the particulars herewith as well as in regard to the publication of the decree.

ARTICLE 519.

PARAGRAPH 1. If a person subject to insurance intends to make use of the right of article 517, paragraph 1, he shall make application to the directorate at the time of admission to the sick fund, or at the latest on the second pay day; he shall communicate to it the name and seat of the substitute fund and prove that he belongs to it.

PAR. 2. On application of a substitute fund the federal council may confer on it the right to make applications in place of the persons subject to insurance.

PAR. 3. The sick fund shall give information to the employers of the person subject to insurance, only in regard to the question whether his rights and duties are suspended but not as to which substitute fund he belongs.

ARTICLE 520.

PARAGRAPH 1. If the application has not been made at the proper time on admission to the sick fund, then it may be made not earlier than at the beginning of the next calendar quarter; it must be made to the directorate at least one month in advance; the admission to the substitute fund must also be proved to the directorate.

PAR. 2. The same is applicable to members of the sick fund who join only after admission to a substitute fund.

ARTICLE 521.

PARAGRAPH 1. The substitute fund shall send a notice of the withdrawal of a member subject to insurance who has made use of the right of article 517, paragraph 1, to the directorate of its sick fund or to the common place of registration established for it, not later than at the close of the calendar quarter; it shall also send a notice within a month at the latest of the exclusion of such a member or

of his transfer to a class of membership entitled to lower benefits than those specified in article 507, paragraph 1.

PAR. 2. If the sick fund or the place of registration is unknown to the substitute fund, the notification shall be directed to the local insurance office in whose district the member was employed at the last payment of the contribution. This employment and the place where he is staying at that time shall be indicated. The local insurance office shall transmit the notification to the directorate of the proper sick funds.

ARTICLE 522.

PARAGRAPH 1. The constitution of the substitute fund shall specify which of its administrative bodies or employees shall make the notification and the applications which have been transferred to the fund according to article 519, paragraph 2.

ARTICLE 523.

If, in the case of a member of a substitute fund, the pecuniary benefit to which he would be entitled in his sick fund is increased so that the pecuniary benefit of the substitute fund for his membership class would no longer meet the requirements of article 507, paragraph 1, then his rights and duties according to article 517, paragraph 1, shall be suspended until the close of the calendar quarter, but for not less than two weeks.

ARTICLE 524.

The obligations of insurance carriers according to article 116, and of sick-fund directorates according to article 344, are also applicable to substitute funds.

ARTICLE 525.

The local insurance office shall decide by judgment procedure in disputes between substitute funds and sick funds over the refund of benefits granted illegally (art. 224, No. 2).

SECTION ELEVEN.—FINAL PROVISIONS AND PENAL PROVISIONS.

I. FINAL PROVISIONS.

ARTICLE 526.

PARAGRAPH 1. A union of communes, in the meaning of this book, is a union whose district forms the district of the fund or embraces it as the next larger union.

PAR. 2. This highest administrative authority may specify in which cases the commune is competent in place of the union of communes: *Provided*, That the district of the fund does not extend beyond that of the commune.

PAR. 3. Where no union of communes exists, the State government shall specify which is competent.

ARTICLE 527.

PARAGRAPH 1. If a local, or rural sick fund has been created for several communes (independent manor districts, or marks, or march districts), [1] which together do not form a union of communes, they shall be combined according to particular provision of the State government into a union for special purposes (*Zweckverband*).

PAR. 2. The provisions of this book as to unions of communes are also applicable to such unions for special purposes.

ARTICLE 528.

If the district of a fund extends beyond the district of a local insurance office, then the local insurance office of its seat shall be competent for it.

[1] Selbständige Gutsbezirke oder Gemarkungen, ausmärkische Bezirke.

II. PENAL PROVISIONS.

ARTICLE 529.

PARAGRAPH 1. If an insured person violates the sickness regulations or the order of the attending physician, or neglects the notification incumbent on him according to article 190, then the directorate of the fund may impose upon him fines of not more than three times the amount of the daily pecuniary benefit for each case of contravention.

PAR. 2. The directorate of a miner's sick fund, and of a substitute fund, has the same authority as regards a member subject to insurance who violates the sickness regulation or the order of the attending physician.

PAR. 3. On appeal the local insurance office decides finally.

ARTICLE 530.

PARAGRAPH 1. Whoever in violation of his obligations does not register persons subject to insurance (arts. 317, 319, and 468, par. 2), or does not submit the lists of employees engaged in home industries (art. 473), may be fined not to exceed 300 marks [$71.40], if he acts intentionally, and not to exceed 100 marks [$23.80] if he acts negligently.

PAR. 2. Whoever violates in other ways the provisions relating to the registration of persons liable to insurance or to the submission of lists or persons engaged in home industries (arts. 317 to 319, art. 468, par. 2, and arts. 473 and 474) may be fined not to exceed 20 marks [$4.76].

PAR. 3. Whoever in violation of his obligation neglects to submit applications as required by article 519, paragraph 2, and article 522, or to make reports as required by article 521, may be fined not to exceed 20 marks [$4.76].

PAR. 4. The local insurance office shall assess these fines. On appeal the superior insurance office decides finally.

ARTICLE 531.

PARAGRAPH 1. The fund shall recover contributions which are in arrears independently of the fine.

PAR. 2. It may also require the persons fined to pay from one to five times the contributions which are in arrears. The amount shall be collected in the same manner as communal taxes. This is not applicable to persons engaged in home-working industries who violate article 468, paragraph 2.

PAR. 3. Article 396 is here correspondingly applicable.

ARTICLE 532.

PARAGRAPH 1. Employers and persons giving the order (art. 486) shall be punished with a fine of not more than 300 marks [$71.40], or be punished with arrest, unless a severer penalty is provided by other legal provisions if they intentionally do any of the following:

1. Deduct from the employees' earnings larger shares of contributions than this law permits, or make deductions in the case mentioned in article 398;
2. Violate the provisions of article 402.

PAR. 2. The same penalty shall be imposed on employers who act in contravention of the provisions of article 400.

ARTICLE 533.

PARAGRAPH 1. Employers and persons giving the order (art. 486) shall be punished with confinement in jail if they intentionally keep back from the fund entitled thereto the shares of contributions which they have deducted from their employees or have received from them.

PAR. 2. They may in addition be fined not more than 3,000 marks [$714] and be sentenced to the loss of their civic rights.

PAR. 3. If there are mitigating circumstances, then a fine only may be imposed.

ARTICLE 534.

PARAGRAPH 1. The employer may transfer the obligations which this law imposes on him to establishment managers, persons charged with supervision, or other employees of his establishment.

PAR. 2. If such representatives act in contravention of this law, the penalty shall be imposed on them. In addition, the employer is also liable to punishment, if—

1. The contravention took place with his knowledge;
2. He has not observed the necessary care in the selection and supervision of his representatives; in this case only a pecuniary fine may be imposed on the employer.

PAR. 3. One to five times the contributions which are in arrears (art. 531, par. 2) may also be assessed on the representative and collected from him. Besides the representative the employer is also liable for this amount if he has been fined according to paragraph 2.

ARTICLE 535.

The penal provisions of article 23, paragraph 2, are applicable to managing officials and employees of the funds and of the federations of funds; they are applicable to the employers in the case of establishment funds and to the persons appointed according to article 362, paragraph 1, if they intentionally commit acts which injure the fund.

ARTICLE 536.

The same penal provisions (arts. 529 to 535) are applicable—

1. To the members of the directorate, if a stock company, a mutual insurance association, a registered cooperative society, a guild, or other legal person is the employer;
2. To the business manager if a society with limited liability is the employer;
3. To all partners personally liable, as far as they are not excluded from the representation, if any other business corporation is the employer;
4. To the legal representatives of insolvent and partially insolvent employers, as well as to the liqidators of a business corporation, a mutual insurance association, a registered cooperative society, a guild, or other legal person.

BOOK THREE—ACCIDENT INSURANCE.

PART I.

INDUSTRIAL ACCIDENT INSURANCE.

SECTION ONE.—SCOPE OF THE INSURANCE.

ARTICLE 537.

PARAGRAPH 1. Subject to the insurance are—

1. Mines, salt works, ore-treating works, quarries, pits (open digging);
2. Factories, shipyards, metallurgical and metal working plants, pharmacies, and if they are conducted as a business, breweries and tanneries;
3. Yards for the preparation of building materials, establishments executing work in building, decorating, stone cutting, locksmithing, blacksmithing, or plumbing (*Brunnenarbeit*); furthermore stone-breaking establishments as well as building work done by other than regular building establishments;

4. The chimney-sweeping, window-cleaning, butchering trades, and the operation of bathing establishments;
5. The entire establishment of the railroad and the postal and telegraph administrations as well as the establishments of the naval and military administrations;
6. Inland navigation, rafting, flat-boating and ferries, the hauling of ships (towing), inland fishing, fish culture, the operation of ponds and the cutting of ice, if done as a business or administrated by the Empire, a State, a commune, a union of communes or other public body, dredging, as well as the keeping of vessels on inland waters;
7. Establishments engaged in hauling, express, livery, the hiring of riding animals and keeping of stables if carried on as a business, the keeping of vehicles other than water conveyances if driven by mechanical or animal power, as well as the keeping of riding animals;
8. Elevator, storage, and cellarage establishments if conducted as a business;
9. The trades of goods packer, goods loader, agent, sorter, weigher, measurer, inspector, stower;
10. Establishments for the transportation of persons or goods, and timber-felling establishments, if they are connected with a commercial undertaking which extends beyond the scope of a small-scale establishment;
11. Under the same assumption (number 10 preceding), establishments for the treatment and handling of goods.

PAR. 2. The Imperial Insurance Office decides which commercial undertakings (numbers 10 and 11) are not subject to the accident insurance on the ground that they are small-scale establishments.

ARTICLE 538.

Those establishments are considered as factories in the meaning of article 537, number 2, which—

1. Work up or work over articles as a business and for this purpose employ regularly at least 10 workmen;
2. Manufacture or work up as a business, explosives or explosive materials or produce or distribute electrical power;
3. Make use of steam boilers or of machinery moved by mechanical or animal power, provided that such use is not merely temporary;
4. Are placed in the category of factories by the Imperial Insurance Office.

ARTICLE 539.

Other establishments are also subject to the insurance if they are important parts or subsidiary establishments of the establishments described in articles 537 and 538.

ARTICLE 540.

Article 539 is not applicable—

1. To agricultural establishments which are subsidiary establishments.

   The constitution (art. 675) may also place subsidiary establishments of this kind under the industrial accident insurance if the persons employed in them are principally persons from the main establishment. When such a provision comes into force, the subsidiary establishment is withdrawn from insurance in the agricultural accident association. The provision may only be canceled at the end of a fiscal year. Before a provision of the constitution on the membership of an agricultural subsidiary es-

tablishment is approved, the agricultural accident associations affected must be heard. If the accident associations do not come to an agreement, the Federal Council decides the matter upon application. The agreement of the agricultural accident association must in any case be secured, if the provision has not yet been in force more than three years;

2. To marine navigation establishments, and other establishments falling under articles 1046 and 1049, which are important parts of the establishments described in articles 537 and 538 and extend beyond the local traffic or are subsidiary establishments.

ARTICLE 541.

Articles 916, and 918 to 921, regulate what establishments and activities of the kind described in articles 537 and 538 as parts or subsidiary establishments of an agricultural establishment are to enter the agricultural instead of the industrial accident insurance.

ARTICLE 542.

PARAGRAPH 1. If, of several establishments which an undertaker has in the territory of the same superior insurance office, some are of the kind that belong to the industrial and some to the agricultural accident insurance, and if they do not already belong to the same accident association according to the preceding regulations, then, upon application of the employer, they are to be assigned to one accident association if altogether not more than 10 persons subject to the insurance are regularly employed in the establishments.

PAR. 2. The application is to be made to the superior insurance office, which, after a hearing of the accident associations affected, decides upon the assignment.

PAR. 3. The employer and the accident associations affected may appeal from the decision of the superior insurance office.

PAR. 4. Up to the time that the decision comes into force, the employer may withdraw the application.

PAR. 5. The assignment may be revoked only at the close of a fiscal year and as long as the grounds mentioned in paragraph 1 apply, only upon the application of the employer. If the assignment has not yet been in force for three years since the rendering of the final decision, then the revocation shall also require the consent of the accident associations affected.

ARTICLE 543.

PARAGRAPH 1. The Federal Council may exempt from the insurance establishments having no particular accident risk.

PAR. 2. The Imperial Insurance Office prepares the decision of the Federal Council; in this connection the decision senate must render an opinion.

ARTICLE 544.

PARAGRAPH 1. The following are insured against accident in establishments or activities which are subject to the insurance according to articles 537 to 542 (industrial accidents): *Provided*, That these two groups are employed in these establishments or activities:

1. Workmen, helpers, journeymen, apprentices;
2. Establishment officials whose annual earnings do not exceed 5,000 marks [$1,190] of income.

PAR. 2. Acts which have been forbidden do not exclude the assumption of an industrial accident.

ARTICLE 545.

Foremen and technical officials are also to be considered as establishment officials.

ARTICLE 546.

The insurance covers household and similar service to which insured persons, who are principally employed in an establishment or in insured activities, are assigned by the undertaker or his representative.

ARTICLE 547.

By decision of the Federal Council the accident insurance can be extended to specified occupational diseases in industries. The Federal Council is authorized to issue special regulations for the administration thereof.

ARTICLE 548.

The constitution may extend the compulsory insurance—

1. To undertakers of establishments whose annual earnings do not exceed 3,000 marks [$714], or who regularly employ for compensation either no one or at the most two persons subject to insurance;
2. To persons engaged in home-working industries (art. 162) without regard to the number of persons subject to insurance employed, who are the undertakers of an establishment described in articles 537 and 538;
3. To establishment officials whose annual earnings exceed 5,000 marks [$1,190] of compensation.

ARTICLE 549.

PARAGRAPH 1. The directorate of the accident association may declare exempt from the insurance those undertakers who, according to the constitution, are subject to the compulsory insurance (art. 548, number 1) but are exposed to no special accident risk. The directorate shall revoke the exemption whenever the reasons therefor no longer exist.

PAR. 2. On appeal, the superior insurance office decides finally.

ARTICLE 550.

PARAGRAPH 1. Undertakers (art. 633) as well as pilots on inland waters, who conduct their business for their own account, may insure themselves against the results of industrial accidents if they do not have annual earnings of more than 3,000 marks [$714], or if they regularly employ for compensation either no one, or at the most two persons subject to insurance.

PAR. 2. The constitution may also admit them to self-insurance, if they have annual earnings of more than 3,000 marks [$714], or regularly employ for compensation at least three persons subject to insurance.

ARTICLE 551.

The provisions of article 548, Nos. 1 and 2, and of article 550, on the insurance of employers, apply also to their wives or husbands engaged in the establishment.

ARTICLE 552.

The constitution may provide under what conditions accidents of the kind described in articles 544 and 546 may be insured against:

1. By the undertaker of the establishment, on behalf of persons who are employed in the establishment, but are not insured according to articles 544, 545, and 548, No. 3;
2. By the undertaker of the establishment, or the directorate of the accident association, on behalf of persons who are not employed in the establishment but who visit the working place of the establishment or move about therein;
3. By the directorate of the accident association, the members of their official bodies, and their employees.

ARTICLE 553.

The constitution may provide that the voluntary insurance shall be out of force if the contribution has not been paid in spite of warning, and that a new application shall remain of no effect until the arrears of contributions have been paid.

ARTICLE 554.

PARAGRAPH 1. Exempt from the insurance are—

1. Army and Navy officers and surgeons to whom the officers' pension law (Reichs-Gesetzblatt, 1906, p. 565) is applicable;
2. Military persons of the lower classes to whom the noncommissioned officers' and privates' (*Mannschaft*) provision law (Reichs-Gesetzblatt, 1906, p. 593) is applicable;
3. The other persons describe, by article 1 of the accident relief law for officials, etc., of June 18, 1901 (Reichs-Gesetzblatt, p. 211);
4. Officials who have been appointed at a fixed salary and with a claim to retirement pension in the establishments of the administration of a federal State, of a union of communes, or of a commune;
5. Other officials of a federal State, of a union of communes, or of a commune if relief for them has been provided according to articles 14 of the above-mentioned accident relief law.

PAR. 2. Building operations outside of a building establishment conducted as a business, as well as the keeping of riding animals or conveyances not conducted as a business (art. 537, Nos. 6 and 7), are considered as establishments in the meaning of the accident relief law.

SECTION TWO.—BENEFITS OF THE INSURANCE.

ARTICLE 555.

The object of the insurance is the compensation specified in the following provisions for the damage arising from bodily injury or death.

ARTICLE 556.

The injured person and his survivors have no claim if they have purposely brought about the accident.

ARTICLE 557.

PARAGRAPH 1. If the injured person has brought the accident upon himself by the performance of an act which according to a verdict of the court is a crime or an intentional misdemeanor, then the compensation for damages may be wholly or partly denied.

PAR. 2. Contravention of mining regulations shall not be considered a misdemeanor in the meaning of the preceding paragraph.

PAR. 3. The pension may be either wholly or partly paid to the injured person's dependents living in the Empire, if in case of his death they would have a claim to a pension. German protectorates are to be included in the Empire in the meaning of this provision.

PAR. 4. The compensation may also be denied if no verdict of a court has been rendered because of the death or the absence or of any other reason connected with the person of the injured party.

ARTICLE 558.

In case of an injury, there is to be granted from the beginning of the fourteenth week after the accident—

1. Medical treatment; it includes physician's services and the providing of medicines, other therapeutical appliances as well as the aids which are requisite to assure the success

of the treatment or to alleviate the results of the injury (crutches, supporting apparatus, and the like);

2. A pension during the continuance of the disablement.

ARTICLE 559.

The amount of the pension is as follows, as long as the injured person as a result of the accident is—

1. Totally disabled, two-thirds of the annual earnings computed according to articles 563 to 570 (full pension);
2. Partially disabled, that part of the full pension which corresponds to the proportion of the loss of earning power (partial pension).

ARTICLE 560.

As long as the injured person is, as a result of the accident, so helpless that he can not exist without the services and care of others, the pension is to be correspondingly increased, though not to more than the full amount of his annual earnings.

ARTICLE 561.

PARAGRAPH 1. If the injured person at the time of the accident was already permanently and totally disabled, then only medical treatment (art. 558, No. 1) is to be granted.

PAR. 2. As long as in consequence of the accident he is so helpless that he can not exist without the services and care of others, a pension not greater than one-half of the full pension is to be granted.

ARTICLE 562.

As long as the injured person as a result of the accident is unemployed through no fault of his own, the accident association may for a time raise the partial pension to not more than a full pension.

ARTICLE 563.

PARAGRAPH 1. The pension shall be computed according to the compensation which the injured person had drawn during the last year in the establishment (annual earnings).

PAR. 2. In so far as the annual earnings exceed 1,800 marks [$428.40], the excess shall be reckoned at only one-third.

ARTICLE 564.

PARAGRAPH 1. If the injured person had been employed in the establishment a full year before the accident, the annual earnings shall be considered as 300 times the average earnings for a full working day, subject to the provisions of article 569.

PAR. 2. If it is shown that it was customary to operate for a greater or a smaller number of working days, then the multiplication shall be made with this number instead of 300.

ARTICLE 565.

If the injured person had not yet been employed in the establishment a full year before the accident, then the annual earnings shall be computed in such a manner that the number of days on which the injured person was employed in the establishment shall be multiplied by the average earnings for a full working day; for the rest of the customary number of working days of operation of the year there shall be added the average earnings which, during this time, insured persons of the same kind and earning capacity in the establishment or in a neighboring establishment have secured for a full working day.

ARTICLE 566.

If the computation according to article 565 can not be carried out, then the annual earnings shall be computed by multiplying the customary number of working days of operation in the year with the compensation which the injured person during the employment in the establishment received on an average for a full working day.

ARTICLE 567.

If the customary number of working days of operation in the year is so small that those employed in the establishment regularly perform work elsewhere for compensation in addition, then in the cases specified in articles 565 and 566, the number of working days necessary to make up the 300 shall be added to the amount computed according to articles 565 or 566, using the local wages for adults over 21 years of age which at the time of the accident have been determined for the place of employment of the injured person (arts. 149 to 152).

ARTICLE 568.

If the injured person had been employed by the hour, then the average earnings for the full working day may not be placed higher than the average earnings for a workman of the same kind who has been employed during the whole working day.

ARTICLE 569.

Articles 564 to 568 are to be correspondingly applied if the annual earnings are composed of amounts specified for not less than weekly periods.

ARTICLE 570.

If the annual earnings do not equal 300 times the local wages for adults over 21 years (art. 567), then 300 times this wage shall be considered as the annual earnings.

ARTICLE 571.

In the case of persons who, previous to the accident, were already partially and permanently disabled, that part of the local wages shall be used as a basis which corresponds to the proportion of earning capacity before the accident.

ARTICLE 572.

Articles 563 to 571 apply correspondingly to injured persons who were employed in an insured activity without belonging to an insured establishment.

ARTICLE 573.

PARAGRAPH 1. If the insured person is insured against sickness on the basis of the imperial insurance or in a miners' sick fund, he shall be granted at least the regular sick-fund benefits of medical treatment and pecuniary benefit according to article 179. However, the pecuniary benefit from the beginning of the fifth week after the accident until the expiration of the thirteenth week shall amount to at least two-thirds of the basic wage. This may not be refused, even in the case mentioned in article 192, unless the injured person has brought the accident on himself during the commission of a crime or during an intentional misdemeanor (art. 557, pars. 1 and 2). The corresponding rule applies to the house money.

PAR. 2. If an insured person receives at the same time pecuniary sick benefits from another insurance, then the reduction of the pecuniary benefit described in paragraph 1 shall be made according to article 189.

PAR. 3. For members of substitute funds the basic wage of their sick fund, while for members of miners' sick funds the basic wage as specified in article 180, shall be determinative.

PAR. 4. If the person insured against sickness becomes ill as the result of an accident while in a foreign country, then the provisions of articles 221 and 222 are applicable in a corresponding manner.

ARTICLE 574.

Those persons are to be considered as insured against sickness in the meaning of article 573 who:

1. Are exempt from the insurance according to articles 418 and

435, in so far as the sick fund has to make provision for them (art. 422);

2. On account of lack of employment have separated from the sick fund, but still have a claim on the fund (art. 214).

ARTICLE 575.

If in the case of persons subject to the agricultural sickness insurance the pecuniary sick benefit or the house money is not to be paid, or to be paid only in part because according to articles 420, 421, and 425 there are contractual benefits to be paid by the employer, or because according to article 423 the person is in receipt of a pension on the basis of the imperial insurance, then the value of such benefits is to be included in the sick relief specified in article 573 in so far as they are payable during the same time.

ARTICLE 576.

PARAGRAPH 1. Whatever must be granted by the sick funds, the miners' sick funds, or the substitute funds according to articles 573 and 575, in addition to the minimum benefits which must otherwise be provided according to the law or the constitution, must be repaid by the accident association, or in other cases by the undertaker (art. 633), whenever a compensation must be paid to the injured person beyond the thirteenth week. The constitution of the accident association can specify that the latter in all cases must reimburse the additional benefits.

PAR. 2. The same holds true in a corresponding manner if the injured person who is insured against sickness has no claim to sick benefits.

ARTICLE 577.

PARAGRAPH 1. If an injured person belongs to the group of insured persons according to articles 544 and 545, but is not insured against sickness on the basis of the imperial insurance or in a miners' fund, then the undertaker, under reservation of paragraphs 2 and 3, must grant him the sick benefits during the first 13 weeks. For the amount of the benefits and for their reimbursement articles 573 to 576 are applicable. With the consent of the injured person the undertaker can also grant care and maintenance according to article 185, paragraph 1, and for this deduct not more than one-fourth of the pecuniary sick benefit. As the basic wage for this purpose, the local wage for the place of employment (arts. 159 to 152) shall be used. These provisions shall apply in the case of establishment officials only if their annual earnings do not exceed 2,500 marks [$595].

PAR. 2. In the cases mentioned in articles 169, 418, and 435, the employer has to provide the injured person for the first 13 weeks with the benefits specified in paragraph 1. In such case that basic wage shall be used which is determinative for the sick fund. In these benefits those mentioned in articles 169, 418, and 435 shall be included. Anything in excess of this must be repaid to the employer by the accident association or by the undertaker (art. 576). The same holds true in the case mentioned in articles 170 and 171 if the claims arising out of article 169 are provided to the persons mentioned in those articles.

PAR. 3. If a domestic servant is exempt from the insurance because of other relief specified in article 440, paragraph 1, then the provisions of paragraph 2, sentences 1 to 4, apply to him in a corresponding manner, though the carrier providing the other relief takes the place of the employer. The carrier providing the other relief must claim reimbursement for the additional benefits from the undertaker if the accident association is not obliged to make the repayment.

ARTICLE 578.

The details for the carrying out of articles 573 to 577 are to be specified by the Imperial Insurance Office.

ARTICLE 579.

PARAGRAPH 1. The accident association may take over either wholly or in part the benefits to be paid by the undertaker. The latter must reimburse the association to the extent to which the injured person could claim sick benefits from him and in so far as the association itself would not be obliged to make repayment. In such case the reimbursement for sick care shall be three-eights of the basic wage according to which the pecuniary sick benefit of the beneficiary is to be computed.

PAR. 2. This shall be correspondingly applicable if, in the cases mentioned in article 577, paragraphs 2 and 3, the employer or the carrier of other relief takes the place of the undertaker.

ARTICLE 580.

PARAGRAPH 1. If in the case of injured persons to whom articles 573 to 577 do not apply it is to be feared that they must later be provided with accident compensation, the accident association may inaugurate a course of treatment, even before the end of the thirteenth week after the accident, for the purpose of removing or alleviating the results of the injury.

PAR. 2. The accident association can place the injured person in a medical institution; in such case article 597, paragraphs 2 to 4, is applicable.

PAR. 3. With the consent of the injured person the association can grant care and maintenance as specified in article 185, paragraph 1.

PAR. 4. The injured person may claim from the accident association an appropriate recompense for the earnings he loses on account of the course of treatment.

ARTICLE 581.

PARAGRAPH 1. Within the first 13 weeks after the accident, the accident association may also have a medical examination made of the injured person even if it does not grant a course of treatment, and can also call for information concerning the treatment and the condition of the injured person from the sick fund, the miners' sick fund, the substitute fund, the physician in charge, or in the cases mentioned in article 577, from the undertaker.

PAR. 2. On application of the accident association, the local insurance office may compel the undertaker to provide this information within a specified time on penalty of fines not exceeding 100 marks [$23.80].

PAR. 3. Appeals from the determination of the fines shall be decided finally by the superior insurance office.

ARTICLE 582.

PARAGRAPH 1. If the pecuniary sick benefit ceases before the expiration of the 13 weeks, but the disability continues after the payment ceases, then the pension must be granted from the day on which the pecuniary sick benefit ceases.

PAR. 2. The constitution may also permit the payment of the pension even if after the payment of the pecuniary sick benefit ceases, a loss of earning power remains, but will apparently end before the expiration of the 13 weeks.

ARTICLE 583.

PARAGRAPH 1. If the sick fund, miners' sick fund or substitute fund has improperly stopped the payment of its benefits before the expiration of the 13 weeks, then the claim of the injured person to

the pecuniary sick benefit up to the amount of the pension (art. 582) is transferred to the accident association.

PAR. 2. The same rule is applicable in the case of the benefits paid by the undertaker (art. 577).

ARTICLE 584.

If the accident association, during the time it was required according to article 558 to furnish compensation, has not provided benefits for the injured person, and if during this time, the sick fund, the miners' sick fund, or the substitute fund has granted pecuniary sick benefits or care and maintenance in a hospital according to articles 182, 184, and 185, then the injured person shall be considered as having been totally disabled during this time.

ARTICLE 585.

Controversies concerning claims for reimbursement arising out of articles 573 to 577, and article 579, shall be decided by judgment procedure (*Spruchverfahren*).

ARTICLE 586.

PARAGRAPH 1. In fatal cases there must in addition be granted—

1. As a funeral benefit, the fifteenth part of the annual earnings; however, this must not be less than 50 marks [$11.90]; article 203 is applicable in a corresponding manner;
2. A pension to the survivors from the date of the death; it consists of a fraction of the annual earnings according to the provisions of articles 588 to 595.

PAR. 2. The annual earnings shall be computed in the same manner as in the case of bodily injury; however, article 571 does not apply in this connection.

ARTICLE 587.

If because of an earlier accident this rate of annual earnings is smaller than that received by him previously, then the earlier pension is to be included in the annual earnings; in such case, however, that amount may not be exceeded which as annual earnings was used as the basis of the earlier pension.

ARTICLE 588.

If the deceased leaves a widow or children, the pension shall amount to one-fifth of the annual earnings—

For the widow up to the time of her death or remarriage;

For each child up to the completed fifteenth year of age; for an illegitimate child, however, only in so far as the deceased has provided him with maintenance according to legal obligation.

ARTICLE 589.

If the widow remarries, she receives three-fifths of the annual earnings as a settlement.

ARTICLE 590.

PARAGRAPH 1. The widow has no claim if the marriage has taken place only after the accident.

PAR. 2. The accident association may, however, under special circumstances, even then grant a widow's pension.

ARTICLE 591.

PARAGRAPH 1. The provisions concerning pensions of children shall apply also for children of a female person who is not a married woman.

PAR. 2. The same holds true for children of a married woman born before marriage, or for her children of an earlier marriage, if they do not have the legal status of lawful children of the surviving husband.

ARTICLE 592.

PARAGRAPH 1. In case a married woman is killed, who on account of the disability of the husband had supported her family either wholly or in part out of her own earnings, for the duration of the need there is to be granted a pension equal to one-fifth of the annual earnings—

To the widower up to the time of his death or remarriage;

To each child up to the completed fifteenth year of age.

PAR. 2. The widower has no claim if the marriage has taken place after the accident.

PAR. 3. If the husband of the deceased person, without legal grounds therefor has absented himself from the household and has not fulfilled his obligations of maintenance toward the children, then the accident association may grant the pension to the latter.

ARTICLE 593.

PARAGRAPH 1. If the deceased has left relatives in the ascending line whom he has supported to an important degree out of his earnings, then for the duration of the need a pension is to be granted to them, which together shall be one-fifth of the annual earnings.

PAR. 2. If there are relatives of different degree in the ascending line, then the pension shall be approved for the parents in preference to the grandparents.

ARTICLE 594.

If the deceased leaves orphan grandchildren whom he has wholly or partly supported out of his earnings, then for the duration of the need there shall be granted to them, up to the completed fifteenth year of each, a pension equal altogether to one-fifth of the annual earnings.

ARTICLE 595.

PARAGRAPH 1. The pensions of the survivors may not together exceed three-fifths of the annual earnings; in the contrary case they shall be decreased, and in the following manner: In the case of consorts or children in the same degree; relatives of the ascending line have a claim only in so far as consorts or children, and grandchildren only in so far as those named first do not exhaust the highest amount named.

PAR. 2. In case one survivor ceases to have a right to a pension, the pensions of the others are to be increased to the highest permissible amount.

ARTICLE 596.

PARAGRAPH 1. The survivors of a foreigner, if such survivors at the time of the accident do not customarily reside in Germany, have no claim to a pension.

PAR. 2. The Federal Council can exclude from this provision foreign border territories or subjects of such foreign States the legislation of which provides a corresponding relief for the survivors of Germans killed by an industrial accident.

PAR. 3. German protectorates are considered as German territory in the meaning of paragraph 1.

ARTICLE 597.

PARAGRAPH 1. In place of the benefits prescribed in article 558 the accident association may grant free medical treatment and maintenance in a medical institution (medical-institution care).

PAR. 2. If the injured person has a household of his own, or is a member of the household of his family, then his consent thereto is necessary.

PAR. 3. In the case of a minor over 16 years of age his consent is sufficient.

PAR. 4. The consent is not necessary if—

1. The nature of the injury requires treatment or care which is not possible in the family of the injured person;
2. The sickness is infectious;
3. The injured person has repeatedly acted contrary to the directions of the attending physician;
4. The condition or conduct of the injured person makes continuous observation necessary.

PAR. 5. In the cases mentioned in paragraph 4, numbers 1, 2, and 4, the accident association shall, if possible, provide treatment in a medical institution.

ARTICLE 598.

If the accident association provides treatment in a medical institution after the first 13 weeks, or on account of the cessation of the pecuniary sick benefit before that time, then a pension must be granted to the relatives of the injured person in so far as it would be granted in case of his death(relative's pension). This claim is also possessed by the wife whose marriage with the injured person has taken place after the accident.

ARTICLE 599.

With the consent of the injured person the accident association may grant care and attendance by sick nurses, nursing sisters, or other nurses (house care—*Hauspflege*), especially when the placing of the injured person in a medical institution is indicated, but may not be carried out, or an important reason exists for leaving the injured person in his household or in his family.

ARTICLE 600.

PARAGRAPH 1. If the accident association assumes the payment of the benefits of the undertaker according to article 579, then in place of the sick care and of the pecuniary sick benefit, it may provide hospital care and house money according to articles 184, 186, and 577, paragraph 1; with the consent of the injured person the accident association may also grant care according to article 185, paragraph 1, but in such case shall deduct not more than one-fourth of the pecuniary sick benefit.

PAR. 2. The undertaker must reimburse the accident association to the extent to which the injured person could claim sick benefits from him and in so far as the association itself would not be obliged to make repayment. In such case the reimbursement for the sick care shall be three-eighths of the basic wage according to which the pecuniary sick benefit of the beneficiary is to be computed.

PAR. 3. The same holds true in a corresponding way if in the cases mentioned in article 577, paragraphs 2 and 3, the employer or the carrier of other relief takes the place of the undertaker.

ARTICLE 601.

Controversies concerning claims for reimbursement arising out of article 600 shall be decided in judgment procedure (*Spruchverfahren*).

ARTICLE 602.

The accident association may by its constitution grant special relief to the injured person who is placed in a medical institution (*Heilanstalt*) and to his dependents either by general rules or according to the need of the parties.

ARTICLE 603.

The accident association may at any time inaugurate a new course of treatment if it may be expected that such would increase the earning capacity of the accident pensioner.

ARTICLE 604.

In addition to the injured person, the sick fund, the miners' sick fund, or the substitute fund to which he belongs, may apply for the resumption of the medical treatment.

ARTICLE 605.

PARAGRAPH 1. If the sick funds, the miners' sick funds, the substitute funds, or the carriers of the accident insurance have placed an injured person in an institution possessing adequate arrangements for treatment, then the injured person during the course of treatment may not be placed in another institution without his consent.

PAR. 2. The local insurance office of the place where he is staying may grant the consent instead.

ARTICLE 606.

If the injured person has not complied with a regulation which affects the medical treatment without any legal or other appropriate reasons therefor, and if his earning capacity will thereby be unfavorably influenced, then his compensation may be disallowed for the time being, either wholly or partly, after this result has been pointed out to him.

ARTICLE 607.

PARAGRAPH 1. On application the directorate of the accident association may grant to the person receiving pension maintenance in a home for invalids (*Invalidenhaus*), an orphan asylum (*Waisenhaus*), or a similar institution, in place of the pension.

PAR. 2. Such institutions are considered as hospitals, homes, and sanatoria, in the meaning of article 11, paragraph 2, and of article 23, paragraph 2, of the law on relief residence (Reichs-Gesetzblatt, 1908, p. 381).

PAR. 3. So placing the receiver of a pension obligates him to a release of his pension for a period of three months and if he does not protest within one month before the expiration of this period, to a further period of three months.

ARTICLE 608.

If an important change takes place in the conditions which were of importance in the determination of the compensation, then a new determination may be made.

ARTICLE 609.

During the first two years after the accident a new determination on account of a change in the condition of the injured person may be undertaken or demanded at any time. If, however, within this time limit a permanent pension has been legally determined, or if this time limit has expired, then a new determinaton may be undertaken or demanded only in periods of at least one year. These periods are not affected by the inauguration of a new course of treatment. The periods may be shortened by mutual agreement.

ARTICLE 610.

The decision, or the final decision, which decreases or withdraws the pension will become effective with the expiration of the month following its announcement.

ARTICLE 611.

The increasing or regranting of the pension may be claimed only for the time after the registry of the claim therefor.

ARTICLE 612.

PARAGRAPH 1. The cost of the medical treatment and funeral benefits are to be paid within one week after their determination, while pensions are to be paid in monthly amounts in advance. If the pen-

sion amounts to 60 marks [$14.28] or less, then it is to be paid in quarterly amounts in advance: *Provided*, That it is not probable that it will cease to be paid before the expiration of the quarter.

PAR. 2. With the consent of the person entitled to the pension the accident association may pay the same at longer intervals of time.

PAR. 3. The pension shall be rounded off in amounts of full 5 pfennigs [1.2 cents] for the month or the quarter.

ARTICLE 613.

PARAGRAPH 1. The pension shall be paid for the rest of the month in which the death occurred, in which the remarriage occurred, and in which the pension was suspended. In cases where in addition to the part of the month on account of the pension of the injured person there is also a pension of the survivors, then the latter shall have a claim to the higher amount.

PAR. 2. If the pension is to be paid for a longer period of time, the accident association may pay the pension for this period also.

ARTICLE 614.

If the person entitled to compensation has not received it at the time of his death, then the wife or husband, the children, the father, the mother, the brothers and sisters are entitled to it in order: *Provided*, That they have lived with the person entitled to the pension at the time of his death in the same household.

ARTICLE 615.

PARAGRAPH 1. The pension shall be suspended—

1. As long as the beneficiary is serving a prison term of more than one month or has been placed in a workhouse or reformatory.

   If he has dependents in Germany who in case of his death would have a claim to a pension, then the pension up to the amount of his claim shall be turned over to them.

2. So long as a person who is a German subject remains in a foreign country and neglects:

   To inform the accident association of his whereabouts;

   As an injured person, on the demand of the accident association, to present himself from time to time to the competent consul or other German authorities designated by him.

   The Imperial Insurance Office shall specify the particulars in regard to communicating and presentation.

   If the person entitled to pension proves that he has neglected to make the prescribed communication and presentation without any fault of his own, then the right to the pension shall be resumed again.

3. As long as the foreign beneficiary voluntarily resides in a foreign country;

4. As long as a foreign beneficiary is expelled from the territory of the Empire on account of a condemnation in a criminal process. The same applies to a foreign beneficiary who has been expelled from the territory of one of the federal States on account of a condemnation in a penal procedure, so long as he does not stay in another federal State.

PAR. 2. In the cases mentioned in numbers 3 and 4, the Federal Council may suspend the cessation of a pension for foreign border territories, or for the subjects of such foreign States whose legislation guarantees a corresponding relief to Germans and their survivors.

PAR. 3. If the expulsion of a foreigner entitled to a pension (par. 1, No. 4) is not directed by a condemnation, or on account of a condemnation in a penal procedure, then paragraph 1, No. 2, shall be applicable.

PAR. 4. German protectorates shall be regarded as German territory in the meaning of these provisions.

ARTICLE 616.

If the pension of an injured person amounts to one-fifth of a full pension or less, then the accident association, with his approval and after a hearing by the local insurance office, may settle upon him a capital sum corresponding to the value of his annual pension.

ARTICLE 617.

PARAGRAPH 1. A foreigner entitled to a pension who gives up his customary abode in Germany, or who resides customarily in a foreign country, can with his consent receive a settlement from the accident association equal to three times the amount of his annual pension, and without his consent may be paid a capital sum corresponding to the value of his annual pension.

PAR. 2. The Federal Council may nullify this provision for foreign border territories.

ARTICLE 618.

In cases of settlement with a corresponding capital sum (arts. 616 and 617), the Federal Council shall regulate the computation of the value of the capital sums.

ARTICLE 619.

If on a new investigation the accident association becomes convinced that the benefits were incorrectly disallowed, either wholly or partly, or have been withdrawn or suspended incorrectly, it may determine these anew.

ARTICLE 620.

The accident association does not need to demand the return of the compensation which it had to pay before a legal decision came into force.

ARTICLE 621.

With the exception of the cases mentioned in article 119, claims for compensation may be transferred, assigned, and pledged with legal effect, also on account of demands of the sick funds, miners' associations, miners' funds, substitute funds, and insurance institutions which are entitled to reimbursement according to articles 1501, 1522, and 1528. The transfer, assignment, and execution is only permissible to the amount of the legal claims for reimbursement.

ARTICLE 622.

Claims may be reduced only by the following:

Arrears of contributions;
Advances made out of the assets of the accident association;
Compensation which was paid incorrectly;
Costs of procedure which are to be returned;
Fines which have been imposed by the directorate of the accident association;
Claims for reimbursement of the accident association according to articles 903 and 904.

SECTION THREE.—CARRIERS OF THE INSURANCE.

I. THE ACCIDENT ASSOCIATIONS AND OTHER CARRIERS OF THE INSURANCE.

ARTICLE 623.

As carriers of the insurance, the accident associations comprise the undertakers of the insured establishments (art. 633, par. 1).

ARTICLE 624.

The Empire or the federal State is the carrier of the insurance if the establishment is conducted for its account in the two cases mentioned below, which also include building work and activities in connection with the keeping of riding animals or conveyances not managed as a business (art. 537, Nos. 6 and 7). These two cases are—

1. In the case of the administration of the postal service, the telegraph service, the navy, and the army;
2. In the case of the railways.

ARTICLE 625.

PAGAGRAPH 1. The Empire or the federal State is the carrier of the insurance if the establishment is conducted for its account in the case of establishments for dredging, inland navigation, rafting, flatboating, and ferrying, unless the establishments, according to article 2, paragraph 2, of the law of May 28, 1885 (Reichs- Gesetzblatt, p. 159), belong to the accident associations created for them.

PAR. 2. The later entrance of such establishments into an accident association, or the rewithdrawal, or the re-entrance, in case the accident association does not agree thereto, is permissible only with the approval of the Federal Council, and in the absence of other agreement only at the close of a fiscal year.

PAR. 3. In case of rewithdrawal the Empire or the federal State must from then on satisfy the claims for compensation which exist against the accident association on account of accidents in the establishment which has withdrawn, and in this connection an appropriate portion of the reserve and of other assets of the accident association must be turned over to the Empire or to the federal State. The latter are then required to assume the payment of an appropriate part of the interest and refunding payments for the floating debt (art. 779).

PAR. 4. The accident association and the Empire or the federal State may by mutual agreement act in variance of the provisions of paragraph 3; in such cases the decision of the general meeting of the accident association is required.

PAR. 5. If controversies arise in regard to distributing the assets between the accident association and the Empire or the federal State, they may settle the question by an arbitration decision; otherwise it shall be decided by the Imperial Insurance Office (decision senate).

ARTICLE 626.

In so far as the Empire, a federal State, a public union or other corporation, has the sole right through law or treaty to engage in inland navigation on a waterway or a part thereof (towing and the like), these establishments belong to the accident association created for them.

ARTICLE 627.

PARAGRAPH 1. The Empire or the federal State is the carrier of the insurance for operations other than the building work and activities in connection with the keeping of riding animals or conveyances not conducted as a business according to article 624 (art. 537, Nos. 6 and 7): *Provided*, That these other building operations or activities are conducted for its account. This does not apply, whenever the Empire or the federal State through a declaration of the imperial chancellor or of the highest administrative officials enter into the accident association, which is the proper one for building-trades operations or for the undertakers of establishments engaged in hauling, or in inland navigation, as a business. The declaration of entrance shall also specify the date on which the entrance becomes effective.

PAR. 2. The rewithdrawal and the reentrance is permissible if the accident association does not agree thereto, only with the approval of the Federal Council, and in the absence of other agreement only at the close of a fiscal year.

PAR. 3. In the case of a rewithdrawal, article 625, paragraphs 3 to 5, is applicable in a corresponding manner.

ARTICLE 628.

PARAGRAPH 1. A commune, a union of communes, or another public corporation is the carrier of the insurance for such building work and activities in connection with the keeping of riding animals or other conveyances not conducted as a business (art. 537, Nos. 6 and 7) which it conducts as an employer in establishments other than railways: *Provided*, That the highest administrative authorities, on application, have declared the corporation able to assume the burden. Otherwise such a corporation shall be insured together with the designated operations and activities according to article 629.

PAR. 2. The highest administrative authority may unite several communes, unions of cummunes, or other public corporations into a federation for the common carrying out of the insurance and declare the latter to be capable of carrying the burden.

PAR. 3. A commune, a union of communes, or another public corporation, may through a declaration of its directorate enter into the competent accident association (art. 627, par. 1). The declaration of entrance shall also specify the date on which the entrance becomes effective.

PAR. 4. If such a corporation is declared to be unable to carry the burden, then its rewithdrawal from the accident association and its reentrance, in the absence of other agreement, is permissible only at the close of a fiscal year. If it is declared capable of carrying the burden, then article 627, paragraph 2, is applicable for its rewithdrawal from the accident association and its reentrance; for its rewithdrawal article 625, paragraphs 3 to 5, is also correspondingly applicable.

ARTICLE 629.

PARAGRAPH 1. Building work which other undertakers do not carry out as a business shall be insured at the expense of the undertakers, or of the communes, or of the unions, through special institutions (branch institutes) which shall be attached to the accident associations of the building trades employers (arts. 783 to 835). The accident association is the carrier of the branch institute.

PAR. 2. In the same way branch institutes (arts. 836 to 842) shall be attached to the accident associations of the undertakers of establishments engaged in hauling and inland navigation as a business for the insurance of activities connected with the keeping of riding animals or other conveyances not conducted as a business (art. 537, Nos. 6 and 7). The Federal Council can attach the branch institutes or parts of them, to other accident associations. In place of the branch institutes or parts of them, the Federal Council may create mutual insurance association as independent insurance carriers, and in such case regulates their organization. In case the Federal Council herewith alters the status of branch institutes or of mutual insurance associations it shall regulate the transfer of the burden of accidents and of the assets.

II. COMPOSITION OF THE ACCIDENT ASSOCIATIONS.

ARTICLE 630.

PARAGRAPH 1. The accident associations shall be created according to geographical districts; they include all establishments of the

branch of industry for which they were created. In the case of accident associations for railways or the establishments designated in article 537, Nos. 6 and 7, this provision may be departed from.

PAR. 2. The Federal Council may approve the uniting of the undertakers of establishments which belong to miners' associations, or to miners' funds, into miners' accident associations.

PAR. 3. Those accident associations which have been created in accordance with earlier accident insurance laws retain their former status under reservation of the changes permitted according to articles 635 to 648.

ARTICLE 631.

PARAGRAPH 1. If the establishment includes important parts of industries of different kinds, it is to be assigned to that accident association to which the principal establishment belongs. The same holds true under reservation of article 540, of subsidiary establishments, and of such insured activities which are portions of the establishment.

PAR. 2. Establishments and operations in inland navigation and rafting are included in the insurance of the principal establishment only if they do not extend beyond local traffic.

PAR. 3. Activities which according to their nature belong to the insurance of a branch institute or a mutual insurance association are to be insured in the accident association to which the undertakers engaged in activities of the same kind belong when the latter are more important than the other activities.

ARTICLE 632.

The provisions of article 542 are applicable in a corresponding manner for several establishments of the same undertaker all of which are subject to the industrial accident insurance and do not otherwise come under article 631, paragraph 1. This does not hold true for establishments engaged in inland navigation and rafting.

ARTICLE 633.

PARAGRAPH 1. The undertaker of an establishment is the one for whose account the establishment is conducted.

PAR. 2. In other cases the undertaker is—

1. In the case of building work which is not carried out by a building establishment conducted as a business, the one for whose account it is conducted;
2. In the case of the activities connected with the keeping of riding animals or conveyances not conducted as a business (art. 537, Nos. 6 and 7), whoever keeps the riding animal or conveyance.

ARTICLE 634.

PARAGRAPH 1. An accident association has in those cases to compensate accidents in insured activities in an establishment which is conducted for the account of an undertaker not belonging to it, if an undertaker belonging to it has given the order and has to make payment therefor.

PAR. 2. This applies in a corresponding way for the branch institutes.

III. CHANGES IN THE STATUS OF THE ACCIDENT ASSOCIATIONS.

ARTICLE 635.

Changes in the status of the accident associations are permissible with the beginning of a fiscal year, according to articles 636 to 648.

ARTICLE 636.

Several accident associations may unite themselves by a concurrent resolution of the general meetings of the accident associations. The resolution must have the approval of the Federal Council.

ARTICLE 637.

PARAGRAPH 1. The general meetings of the accident associations affected can resolve that individual branches of industry or geographically limited parts of an accident association shall be transferred to another association. The resolution must receive the approval of the Federal Council.

PAR. 2. The approval can be withheld if the withdrawal would endanger the solvency of one of the accident associations affected.

ARTICLE 638.

If application is made on the basis of a resolution of the accident associations to have several accident associations united, or separate branches of industry or geographically limited parts, separated from the accident association, and added to another, then if an accident association affected protests, the Federal Council shall decide the matter upon appeal.

ARTICLE 639.

The general meeting of the accident association decides in the first place upon an application to create a special accident association for separate branches of industry, or geographically limited parts. The Federal Council decides finally.

ARTICLE 640.

The Imperial Insurance Office prepares the decision of the Federal Council; in such cases the decision senate must express an opinion.

ARTICLE 641.

The Federal Council may withhold its approval to the creation of a new accident association if—

1. The number of establishments or of the necessary persons would be too small to guarantee its permanent solvency;
2. The acceptance of establishments in the accident associations is refused, which for the same reasons (No. 1) are not in a position to form a solvent accident association of their own and can not properly be assigned to another accident association.

ARTICLE 642.

If several accident associations combine to form a new accident association, then all their rights and duties are transferred to the latter as soon as the change becomes effective.

ARTICLE 643.

If parts of an accident association are separated to form another or to be joined to another, then the other accident association from that time on must satisfy the claims for compensation which had grown up against the old accident association on account of accidents in the establishments which have been separated. The same is also applicable if agricultural subsidiary establishments are transferred to an industrial accident association according to the constitution (art. 540, No. 1).

ARTICLE 644.

Accident associations upon which are placed the obligation of compensation have a claim to a corresponding part of the reserve and of the other assets of the accident association released from these obligations. They are required to assume the payment of a corresponding part of the interest and of the amounts necessary for the refunding of the floating debt (art. 779).

ARTICLE 645.

The general meetings of the accident associations affected may act in variance with the provisions of articles 642 to 644 through concurrent resolution.

ARTICLE 646.

If a dispute arises during the negotiations in regard to the division of the assets between the accident associations affected, they may settle the matter by an arbitration decision; otherwise the Imperial Insurance Office (decision senate) shall decide.

ARTICLE 647.

PARAGRAPH 1. If an accident association becomes unable to fulfill its legal obligations, the Federal Council may dissolve the same if the Imperial Insurance Office (decision senate) makes application therefor.

PAR. 2. The branches of industry of a dissolved accident association shall be apportioned to other accident associations. The latter are to be heard in advance.

PAR. 3. On the dissolution of an accident association its rights and duties are assumed by the Empire.

ARTICLE 648.

If an accident association which is subject to the supervision of a State insurance office (art. 723) is dissolved as insolvent, then its rights and obligations are to be assumed by the federal State.

SECTION FOUR—ORGANIZATION OF THE ACCIDENT ASSOCIATIONS.

I. MEMBERSHIP AND THE RIGHT TO VOTE.

ARTICLE 649.

Each undertaker is a member of an accident association whose establishment belongs to the branches of industry covered by it and in whose territory the establishment has its seat. The Empire, the federal States, communes, unions of communes, and other public corporations are members in so far as articles 624 to 628 do not prescribe otherwise.

ARTICLE 650.

Membership begins with the opening of an establishment or with the placing of it under the insurance obligation; for the Empire and the federal States, for communes, unions of communes, and other public corporations, the beginning of the membership is regulated according to articles 625 to 628.

ARTICLE 651.

PARAGRAPH 1. In each establishment the undertaker must make known through a placard—

1. To which accident association and section the establishment belongs;
2. Where the place of business of the directorate of the accident association and of the section is located.

PAR. 2. If an agricultural establishment is placed under the industrial accident insurance according to article 540, number 1, and article 542, the placard must call attention thereto.

ARTICLE 652.

If members or their legal representatives do not possess civic rights, they shall not have the right to vote.

II. REGISTRATION OF THE ESTABLISHMENTS.

ARTICLE 653.

PARAGRAPH 1. Whoever with an establishment becomes a member of an accident association, must within one week report to the local insurance office in whose district the establishment has its seat the following:

1. The kind of the establishment and the object of the establishment;
2. The number of insured persons;

3. The accident association to which the establishment belongs;
4. If the establishment is first opened after the law comes into force, the date of opening and if the establishment becomes subject to the insurance only after the law enters into force, the day when insurance obligation begins.

PAR. 2. The report is to be sent in duplicate; the receipt thereof will be acknowledged.

PAR. 3. If an establishment has already been reported and when a change in the person only of the undertaker of the establishment has occurred, then a repetition of the report according to paragraph 1 is not required.

ARTICLE 654.

The local insurance office assigns each establishment in its territory concerning which a report has been received, within one week by sending one of the reports to the directorate of the accident association designated therein.

ARTICLE 655.

If in the opinion of the local insurance office the establishment belongs to an accident association other than that designated, it shall notify the directorate of the latter accident association as well as the undertaker and shall transmit the reports to the directorate of the other accident association.

ARTICLE 656.

PARAGRAPH 1. If the report is not sent in or is incomplete, the local insurance office can require the undertaker to give the information within a specified time under penalty of a fine up to 100 marks [$23.80].

PAR. 2. On appeal against the determination of the fine the superior insurance office decides finally.

PAR. 3. The local insurance office assigns the establishment within one week after the expiration of the specified time limit by furnishing the information itself (art. 653, par. 1).

III. REGISTER OF ESTABLISHMENTS.

ARTICLE 657.

The directorates of the accident associations must keep registers of establishments on the basis of the reports sent to them by the Imperial Insurance Office and of the later assignments (arts. 654 and 656).

ARTICLE 658.

The members shall be listed in the register of establishments after it has been ascertained that they have joined the proper association.

ARTICLE 659.

PARAGRAPH 1. Membership certificates shall be sent to the members listed in the register of establishments, by the directorate of the accident association. If the accident association is divided into sections, the membership certificate must designate the section to which the undertaker belongs.

PAR. 2. If acceptance in the register is declined, a decision with the grounds therefore must be transmitted to the head of the establishment through the intervention of the local insurance office.

ARTICLE 660.

Within one month after the delivery of the membership certificate or of the decision declining membership, appeal against the acceptance or the disallowance must be made by the undertaker to the superior insurance office. The appeal is to be transmitted to the local insurance office. If in proceedings on the appeal it is shown

that although the establishment is subject to the accident insurance it still does not belong to any of the existing accident associations, then the matter is to be laid before the Imperial Insurance Office. The latter shall assign the establishment to that accident association to which according to its nature it is most nearly allied.

ARTICLE 661.

If the undertaker does not make an appeal against a decision declining membership within the proper time, the local insurance office may lay the matter before the Imperial Insurance Office; upon application of the accident association such action must be taken.

ARTICLE 662.

If in the case mentioned in article 655 the directorate of the accident association designated in the notification accepts the membership of the undertaker, then the directorate of this association shall notify the directorate of the other accident association. The latter can within one month after the receipt of the communication make an appeal.

ARTICLE 663.

Extracts from the register of establishments are to be communicated to the directorates of the sections in regard to the undertakers belonging thereto.

IV. CHANGES IN THE UNDERTAKERS—CHANGES IN THE ESTABLISHMENT AND IN ITS MEMBERSHIP IN THE ACCIDENT ASSOCIATION.

ARTICLE 664.

Within the time specified in the constitution the undertaker must report changes in the person for whose account the establishment is conducted to the directorate of the accident association for entry in the registry of establishments. He remains liable for the contributions up to the end of the fiscal year during which the change is reported without, however, releasing his successor from the liability.

ARTICLE 665.

The undertaker must report changes in his establishment which are of importance for his membership in the accident association to the directorate within the time specified in the constitution.

ARTICLE 666.

If upon application of the undertaker or if on its own accord the directorate believes it necessary to refer the establishment to another accident association, then it shall refer the establishment to the latter and communicate this fact to the association and through the local insurance office to the undertaker with a statement of the reasons therefor.

ARTICLE 667.

PARAGRAPH 1. The head of the establishment and the directorate of the other accident association may make protest against the assignment to the directorate which has so assigned the establishment; the last-named directorate shall lay the protest before the superior insurance office.

PAR. 2. If protest is not made within the proper time, then the establishment shall be reinscribed in the register and another membership certificate shall be made out or the undertaker.

ARTICLE 668.

If an accident association demands the assignment of an establishment and the undertaker or the accident association to which the establishment has hitherto belonged objects to the transfer, then the directorate of this accident association shall lay the matter before the superior insurance office for decision.

ARTICLE 669.

If the undertaker makes claim for the change in the registry of his establishment, then in case of objection on part of both accident associations he may make application for a decision to the superior insurance office.

ARTICLE 670.

The provisions of articles 666 and 667 for the assignment of an establishment apply correspondingly in regard to its release from membership.

ARTICLE 671.

PARAGRAPH 1. If the application for the transfer or release of membership has been granted, then the change in the membership in the accident association shall become effective on the date on which the application has first been received by one of the directorates of the accident associations affected. If the establishment has been transferred or released from membership by the action of the officials, then that date shall be used on which the transfer or the release from membership has been communicated to the undertaker.

PAR. 2. The directorates affected and the undertaker may agree upon another date.

ARTICLE 672.

If the transfer or release from membership is delayed to an important extent because the legal or constitutional provisions have not been observed, then upon application the superior insurance office may decide that the change in the membership of the accident association shall become effective on a date earlier than that specified in article 671, paragraph 1, however, not earlier than the beginning of the fiscal year during which the claim for contributions has not yet lapsed.

ARTICLE 673.

PARAGRAPH 1. If single establishments or subsidiary establishments go from one accident association to another, then article 643 applies in regard to the transfer of the accident burden.

PAR. 2. The accident association taking over an establishment has a claim to a corresponding part of the reserve of the accident association released. This part is to be computed according to an average rate which the Imperial Insurance Office shall determine every five years, separately for industrial and agricultural associations, according to the amount of the reserves of all the accident associations.

PAR. 3. Articles 645 and 646 are to be applied here.

ARTICLE 674.

PARAGRAPH 1. The obligation to make reports in case of changes in an establishment which affect the apportionment in the risk tariff (art. 711) and further procedure are to be regulated in the constitution.

PAR. 2. If the committee or the directorate of the accident association has to draw up and change the risk tariff (art. 707), then the general meeting of the accident association may also transfer to this body the regulation of the obligation to give notice in case of these changes in the establishment.

PAR. 3. The undertaker may appeal against the decision which the accident association issues upon the notification of the changes or in acting on its own initiative.

V. CONSTITUTION.

ARTICLE 675.

The accident associations regulate their internal administration and their order of business through a constitution which the general meeting of the accident association decides upon.

ARTICLE 676.

PARAGRAPH 1. The preliminary directorate elected by the general meeting for the purpose of establishing the organization shall conduct the general meeting and manage the business of the accident association until the directorate elected on the basis of a valid constitution shall take over the business.

PAR. 2. The preliminary directorate shall consist of a chairman, a secretary, and at least three associates.

ARTICLE 677.

The constitution must specify if—

1. The name, the seat, and the district of the accident association;
2. The composition, rights, and duties of the directorate;
3. The form of the declarations of the decisions of the directorate as well as its signature on behalf of the accident association, the manner of making decisions in the directorate, and its representations as to third parties;
4. The calling of the general meeting of the accident association and its method of arriving at a decision;
5. The right to vote of the members and the examination of their credentials;
6. The rates for loss of earnings and for traveling expenses which are to be granted to the representatives of the insured persons (art. 21);
7. The representation of the accident association as against the directorate;
8. The procedure to be followed by the administrative bodies of the accident association in rating establishments in classes of the risk tariff;
9. The procedure in cases of changes in the establishment and of a change in the person of the undertaker;
10. The consequences of shutting down an establishment or of a change in the person of the undertaker, especially as to the guaranteeing of his contributions, if he shuts down the establishment;
11. The drawing up, examining, and acceptance of the annual balance sheet;
12. The administrative action relating to the issuance of the regulations containing provisions for accident prevention and for the supervision of the establishments;
13. The procedure in case of the reporting and release from membership of insured undertakers, of pilots and of other persons insured according to article 548, number 3, and article 552, as well as concerning the amounts and ascertainment of the annual earnings of undertakers and of pilots;
14. The method of publishing notices;
15. The provisions as to the amendment of the constitution.

ARTICLE 678.

The constitution may specify—

1. That the general meeting of the accident association shall be composed of delegates;
2. That the accident association shall be divided into local sections;
3. That special district agent shall be appointed as local officials of the accident association.

ARTICLE 679.

PARAGRAPH 1. If the constitution specifies the above, it must at the same time specify—

The election of the delegates;

The seat and district of the sections;

The composition and calling of the general meetings of the sections and the manner of forming decisions;

The composition, rights, and duties of the directorates of the sections, the election, the districts, and the rights and duties of the special officials and their substitutes.

PAR. 2. The general meeting of the accident association may delegate the delimination of the districts, and the election of the district agents and their substitutes, to the directorate of the accident association or of the section and may delegate the election of the directorates of the sections to the general meetings of the sections.

ARTICLE 680.

The constitution may empower the directorate of the accident association to impose fines up to 25 marks [$5.95] upon undertakers and persons holding equal positions according to article 912 who act contrary to their duties as stated in the constitution.

ARTICLE 681.

The constitution requires the approval of the Imperial Insurance Office. If the approval is to be denied, then the decision senate shall decide the matter; the reasons for the disapproval are to be stated. If the approval is not given, then on appeal the Federal Council shall decide.

ARTICLE 682.

If the approval has been finally denied, then within a time specified by the Imperial Insurance Office the general meeting of the accident association shall decide upon a new constitution. If no decision is made or if the new constitution is also finally disapproved, then the Imperial Insurance Office shall issue the constitution and direct that the necessary steps for its execution shall be taken at the expense of the accident association.

ARTICLE 683.

The constitution may be amended only with the approval of the Imperial Insurance Office. If such approval is to be denied, then the decision senate shall decide; the reasons for the disapproval are to be stated. If the approval is denied, then upon appeal the Federal Council shall decide the matter.

ARTICLE 684.

PARAGRAPH 1. If the constitution has been approved, then the directorate of the accident association shall publish the name and seat of the accident association and the districts of the sections in the Reichsanzeiger.

PAR. 2. The same rule is applicable in the case of amendments.

VI. ADMINISTRATIVE BODIES OF THE ACCIDENT ASSOCIATION.

ARTICLE 685.

The board of directors shall administer the accident association in so far as the law or the constitution do not provide otherwise.

ARTICLE 686.

The following matters remain within the power of the general meeting of the accident association:

1. The election of the members of the directorate;
2. The amendment of the constitution;
3. The examination and acceptance of the annual balance sheet, if the general meeting of the accident association has not appointed a special committee for this purpose;

4. The specification of the amount of the lump sums for loss of time and the rates for travel expenses for the members of the official bodies of the accident association.

ARTICLE 687.

PARAGRAPH 1. Subject to the reservations of articles 13 and 14, whoever belongs to an accident association as a member, or holds a place equal to a member (art. 13, par. 2), may be elected to the directorate or as a district agent of the accident association, or as a delegate in the general meeting of the accident association (art. 678, No. 1).

PAR. 2. Those members of a guild, or of the supervisory council of a stock company, of a copartnership with shares (*Kommanditgesellschaft auf Aktien*,) or of a company with limited liability belonging to an accident association, are eligible as members of the directorate who have been at least for five years the undertaker or the duly authorized manager of an establishment belonging to an accident association.

PAR. 3. If branches of industry of various kinds or various kinds of establishments (such as large, medium, and small establishments) are combined in one accident association, then they shall as far as possible be represented in the directorate. The constitution shall specify the particulars.

PAR. 4. The constitution of an accident association may provide that the delegates of the insured persons may belong to its directorate, or if the accident association is divided into sections, to the directorates of the sections, and that they shall have the right to vote. The mining accident association may provide in its constitution that the delegates of the insured persons must be elders of a miners' fund. Their election shall be made through the delegates elected according to article 858; article 859 is applicable in regard to their eligibility.

ARTICLE 688.

The members of the accident associations may have themselves represented in the general meeting of the accident association through other members possessing the right to vote or through a duly authorized manager of their establishment.

ARTICLE 689.

As long as and in so far as the election of the legally authorized official bodies of the accident association does not take place, or the legally authorized official bodies refuse to perform their duties, the Imperial Insurance Office shall either itself or through agents conduct the business at the cost of the accident association.

VI. EMPLOYEES OF ASSOCIATION.

ARTICLE 690.

PARAGRAPH 1. The general meeting of the accident association shall regulate in appropriate manner the general conditions of appointments and the legal status of the employees of the accident association through service regulations.

PAR. 2. Employees who are employed only on probation, for temporary services, for preparation, or only in a subsidiary manner without compensation, are only subject to the service regulations in so far as the latter provide.

ARTICLE 691.

The principles stated in articles 692 to 699 shall control in the matter of the service regulations.

ARTICLE 692.

Appointments are to be made through written contracts.

ARTICLE 693.

PARAGRAPH 1. The right of the accident association to give notice of dismissal may not place the employee less favorably than he would be in the absence of an agreement under the civil law.

PAR. 2. An employee entitled to notice before dismissal may be discharged without such notice if an important reason exists therefor. In the case of employees who may be dismissed with notice who have been employed longer than 10 years, the notice of dismissal may be given only for an important reason. In the latter case it shall also be considered as an important reason if the employee, because of a change in the status of the accident association or in its business administration, can be spared, not merely temporarily; in such cases the employees with the shorter service term of that employee class in which the change is necessary shall first be given notice of dismissal.

ARTICLE 694.

An appointment for life is permissible in so far as the service regulations provide therefor. The latter must then also regulate the conditions for life appointments as well as the legal status of such employees.

ARTICLE 695.

The service regulations must specify the salaries which are to be paid as a minimum for the separate classes of the employees, with the exception of those specified in article 690, paragraph 2, as well as the basis for an increase in salary. The regulations shall at the same time specify how long the salary shall continue to be paid if the employee, without any fault of his own, is prevented from rendering services.

ARTICLE 696.

Employees who abuse their positions in the service or their official business for the purpose of religious or political activity shall be reprimanded by the directorate, after an opportunity has been given to defend themselves, and in case of repetition shall be dismissed; their dismissal shall require the approval of the Imperial Insurance Office. Religious or political activity outside of their official activities, and the exercise of the right of association in so far as it does not conflict with the laws, shall not be prevented and shall not be considered as a reason either for notice of dismissal or for discharge.

ARTICLE 697.

If the service regulations grant a right to retirement pension or to benefits for survivors, then the regulations shall specify the conditions for the granting thereof.

ARTICLE 698.

PARAGRAPH 1. Appointments may be intrusted only to the business directors for the persons designated in article 690, paragraph 2. The chairman of the directorate must then within a time specified in the service regulations, but of not more than six months, determine as to further employment according to article 690, paragraph 2. For such persons he shall also specify the conditions both of notice of dismissal and of discharge.

PAR. 2. In addition the directorate shall decide in regard to the appointment, the notice of dismissal and discharge, as well as upon the apportionment to one of the classes of employees, the increase in salary, and the granting and disallowance of retirement pension and benefits for survivors.

ARTICLE 699.

The service regulations shall specify the authorities competent for the imposition of penalties and the legal remedies against them.

Fines may not be imposed for amounts higher than the service income of one month.

ARTICLE 700.

PARAGRAPH 1. Before formulating the service regulations the directorate shall give the adult employees a hearing.

PAR. 2. The service regulations require the approval of the Imperial Insurance Office.

PAR. 3. If this approval is not given and if within the specified time other service regulations are not drawn up or are not approved, then the Imperial Insurance Office shall issue the service regulations.

PAR. 4. The same holds true for amendmuts.

ARTICLE 701.

PARAGRAPH 1. Decisions of the directorate of the accident association or of the general meeting of the accident association which conflict with the service regulations must be challenged by the chairman of the directorate in the form of an appeal to the Imperial Insurance Office; the appeal acts as a stay.

PAR. 2. If a provision of the contract of appointment conflicts with the service regulations it shall be void.

ARTICLE 702.

No provision shall be made granting preference in the filling of vacancies to persons in possession of a certificate entitling the holder to a civil-service position (soldiers entitled to civil employment).

ARTICLE 703.

PARAGRAPH 1. The directorate may on their own responsibility transfer specified duties to salaried business managers.

PAR. 2. The Imperial Insurance Office shall specify the details in such cases.

ARTICLE 704.

The salaries of the employees shall be determined by the directorate in detail in the budget.

ARTICLE 705.

PARAGRAPH 1. In controversies connected with the conditions of service of employees who are subject to the service regulations, the Imperial Insurance Office (decision senate) shall decide upon appeal if the matter relates to notice of dismissal, discharge, fines of more than 20 marks [$4.76], or pecuniary claims.

PAR. 2. Pecuniary claims are subject to the following special provisions:

PAR. 3. Appeal to law is permissible. Suit may only be brought within one month after the decision of the Imperial Insurance Office has been made; the time limit is a peremptory time limit in the meaning of article 223, paragraph 3, of the Code of Civil Procedure.

PAR. 4. The regular courts shall be required to follow the decisions of the Imperial Insurance Office on the question whether, the period of notice of dismissal having been observed, a notice of dismissal may be given for an important reason (art. 693, par. 2, sentences 2 and 3);

PAR. 5. In questions concerning the determination of fines, an appeal to the regular courts is not permissible;

PAR. 6. On the basis of valid decisions of the insurance authorities, executions shall be made according to book 8 of the Code of Civil Procedure.

VIII. FORMATION OF THE RISK CLASSES.

ARTICLE 706.

The general meeting of the accident association must form risk classes according to the degree of risk of accident for the estab-

lishments belonging to the accident association in the form of a risk tariff and grade the amount of the contributions thereon.

ARTICLE 707.

The general meeting may authorize a committee or the directorate to draw up and amend the risk tariff.

ARTICLE 708.

PARAGRAPH 1. The risk tariff must be reexamined after not more than two fiscal years at first, and thereafter at least for every five-year period with respect to the accidents which have occurred.

PAR. 2. If the amendment of the tariff is not intrusted to the directorate, the latter must place before the competent official bodies of the accident association the result of the reexamination, together with a list of the accidents entitled to compensation arranged according to branches of industry. These officials must decide whether the risk tariff is to be retained or is to be amended.

ARTICLE 709.

The risk tariff and every amendment thereto shall require the approval of the Imperial Insurance Office, to which the list of accidents shall be submitted in the case mentioned in article 708.

ARTICLE 710.

If the competent official bodies of the accident association do not draw up the risk tariff within the time specified to them or if the tariff is not approved, then the Imperial Insurance Office itself shall draw up the tariff after a hearing of the official bodies of the accident association.

ARTICLE 711.

PARAGRAPH 1. The accident association assigns the establishments in the risk classes for the duration of the tariff according to provisions of the constitution.

PAR. 2. After the classification of the establishments the accident association may reclassify an establishment for the period of the tariff, if the statements of the undertaker were incorrect or if a change has taken place in the establishment.

PAR. 3. The undertaker has the right of appeal against the classification.

ARTICLE 712.

PARAGRAPH 1. The general meeting of the accident association may impose supplementary charges or grant rebates for the coming tariff period or a part thereof to heads of establishments in accordance with the accidents which have occurred in their establishments.

PAR. 2. The employer has the right of appeal against the determination of supplementary charges.

IX. DIVISION AND JOINT CARRYING OF THE BURDEN.

ARTICLE 713.

PARAGRAPH 1. The constitution may provide that the sections shall bear the compensation for accidents which occurred in their districts up to three-fourths, and in the case of the mining accident association a proportion in excess thereof.

PAR. 2. The amounts which thereby become a burden to the sections are to be assessed upon their members according to the risk class and the amount of their contribution.

ARTICLE 714.

PARAGRAPH 1. Accident associations may make an agreement to carry in common either the whole or a part of the burden of compensation.

PAR. 2. In such case it must be specified how the common burden is to be distributed upon the accident associations affected.

ARTICLE 715.

The agreement shall require the consent of the general meetings of the accident associations affected and the approval of the Imperial Insurance Office. It may become effective only with the beginning of a fiscal year.

ARTICLE 716.

PARAGRAPH 1. The general meeting of the accident association shall decide how the share of the accident association in the common burden shall be distributed upon the individual members.

PAR. 2. If not otherwise provided, it shall be assessed in the same manner as the amounts paid for compensation which the accident association according to this law is required to pay.

X. ADMINISTRATION OF THE ASSETS.

ARTICLE 717.

The Imperial Insurance Office may publish regulations in regard to the safe-keeping of the securities.

ARTICLE 718.

PARAGRAPH 1. The accident association must invest not less than one-fourth of its assets in bonds of the Empire or of the federal States.

PAR. 2. The association may invest not more than one-half of its assets in a manner otherwise than prescribed in articles 26 and 27. For this purpose it shall obtain the approval of the Imperial Insurance Office.

PAR. 3. If an accident association desires to invest more than one-fourth of their assets according to paragraph 2 it must in addition have for this purpose the approval of the Federal Council, or if the association is subject to the State insurance office, it must have the approval of the highest administrative authorities of the federal State.

ARTICLE 719.

PARAGRAPH 1. Such an investment (art. 718, pars. 2 and 3) is permissible only in securities; in other ways only for administrative purposes, only for the avoidance of loss of assets, or for undertakings which—

1. Are for the benefit either exclusively or principally of the persons subject to the insurance;
2. Or in so far as they promote the personal credit of the members of the accident association in the way of cooperation.

PAR. 2. The Imperial Insurance Office shall specify the particulars for the cases mentioned in paragraph 1, No. 2.

ARTICLE 720.

PARAGRAPH 1. Approval is required for—

The purchase of pieces of ground valued at more than 5,000 marks [$1,190];

The erection of buildings valued at more than 10,000 marks [$2,380];

The purchase of necessary articles of furniture the total value of which is more than 5,000 marks [$1,190].

PAR. 2. The approval is not needed for the purchase of pieces of ground on which the accident association has made loans in the case of compulsory sale.

ARTICLE 721.

The accident associations must make reports to the Imperial Insurance Office according to the regulations of the latter, in regard to their business and finances. The Imperial Insurance Office shall each year draw up a report concerning the total financial operations

of the preceding fiscal year. This report is to be laid before the Reichstag.

SECTION FIVE—SUPERVISION.

ARTICLE 722.

The Imperial Insurance Office shall exercise supervision of the accident associations.

ARTICLE 723.

If a State insurance office is created for a federal State, it shall exercise supervison of the accident associations which do not extend beyond its territory.

ARTICLE 724.

For these accident associations, the State insurance office shall take the place of the Imperial Insurance Office in matters concerning—

Controversies concerning the apportioning of several establishments to one accident association according to articles 542 and 632;

Controversies between an accident association and a public corporation in case of negotiatons in regard to the distribution of assets mentioned in article 625, paragraph 5, and the corresponding provisions of article 627, paragraph 3, and of article 628, paragraph 4;

Changes in the status of accident associations (arts. 635 to 648);

Acceptance in the register of establishments (arts. 660 and 661);

Changes in the membership of an establishment in the accident association in the case mentioned in article 673, paragraphs 1 and 3;

Approval and drawing up of the constitution (arts. 681 to 683);

Taking over the business of the accident association (art. 689);

Service regulations for the employees of the accident association (arts. 690 to 702), as well as controversies arising out of their service relations (art. 705);

Risk tariffs (art. 706 to 712);

Joint carrying of the burden of compensation (art. 715);

Administration of the assets of the accident associations in the cases mentioned in articles 717 to 720, but excluding article 719, paragraph 2;

The collection of contributions and premiums (art. 736, pars. 2 and 3), as well as the building up of the reserve (arts. 741 to 747);

Guarantees of one having building work done (art. 773);

Covering of the claims of the Postoffice Department (arts. 781 and 782);

Branch institutes and insurance associations (arts. 783 to 842) but excluding the cases mentioned in articles 799 and 839;

Additional institutions of the accident associations (arts. 845 to 847);

Accident prevention and supervision (arts. 848 to 891), but excluding the cases mentioned in article 883;

Reporting the names of the administrative officials (art. 893).

ARTICLE 725.

PARAGRAPH 1. If the matter concerns the cases mentioned herewith, the Imperial Insurance Office decides whether an accident association which is subject to another State insurance office or to the Imperial Insurance Office, is affected. The State insurance office then forwards the documents to the Imperial Insurance Office. These cases are the following:

Controversies relating to the assignment of several establishments to one accident association according to articles 542 and 632;

Changes in the status of the accident associations in the cases mentioned in articles 640 and 646;

Acceptance in the register of establishments (arts. 660 and 661);

Changes in the membership of an establishment in the accident association in the case mentioned in article 673, paragraphs 1 and 3;

Joint carrying of the burden of compensation (art. 715);

PAR. 2. If the matter relates to common additional institutions of several accident associations (art. 847), then the Imperial Insurance Office remains the competent authority for these additional institutions provided that all of the accident associations affected are not subject to the same State insurance office.

SECTION SIX.—PAYMENT OF THE COMPENSATION—RAISING THE FUNDS.

I. PAYMENTS THROUGH THE POSTOFFICE DEPARTMENT.

ARTICLE 726.

PARAGRAPH 1. The accident association shall pay the compensation upon notification of the directorate of the accident association through the Post Office Department, and furthermore through that post office in whose district the beneficiary resides.

PAR. 2. The payee shall be notified of the paying office by the directorate.

PAR. 3. If the payee removes his residence, he may make application either to the directorate or to the post office of his old place of residence to have the payments changed to his new place of residence.

ARTICLE 727.

Every person who is entitled to keep a public seal is authorized to give out and to attest the requisite certificates in such payments.

ARTICLE 728.

The highest postal authorities may collect from each accident association an advance sum. According to the choice of the accident association it shall be transmitted either quarterly or monthly to the office designated by the Post Office Department, and may not be greater than that amount which the accident association will probably have to pay in the current fiscal year.

ARTICLE 729.

The Imperial Insurance Office may specify in what manner payments are to be made to payees who customarily reside in a foreign country.

ARTICLE 730.

The mining accident association may specify through its constitution that miners' associations or miners' funds shall pay the compensation instead of the Post Office Department.

II. RAISING THE FUNDS.

ARTICLE 731.

PARAGRAPH 1. The accident associations must collect the means for their expenditures in the form of members' contributions, which shall cover the needs of the preceding fiscal year.

PAR. 2. In the case of the engineering and excavating association (*Tiefbau-Berufsgenossenschaft*) the contributions must, in addition to other expenditures, cover the capitalized value of the pensions which have become a liability of the accident association in the preceding fiscal year. The principles for the obtaining of the capi-

talized values are to be determined by the Imperial Insurance Office.

PAR. 3. In the case of the branch institutes for building work fixed premiums as well as contributions are to be collected from the communes and other unions, and in the case of branch institutes and insurance associations for the keeping of riding animals or conveyances fixed premiums are to be collected (arts. 783 to 842).

ARTICLE 732.

PARAGRAPH 1. The members' contributions are to be assessed, first, according to the earnings received by the insured persons in the establishments, though the local wage rate for adults over 21 years of age must be the minimum, and, second, according to the risk tariff.

PAR. 2. If the earnings received during the contribution period exceed an annual amount of 1,800 marks [$428.40], then only one-third of the excess shall be included in the computation.

ARTICLE 733.

The constitution may provide that in the assessment of the contributions the earnings actually received shall be used in the computation.

ARTICLE 734.

In the case of establishments which regularly employ not more than five insured persons, the constitution may provide that with the consent of the undertaker a lump sum shall be paid instead of the computed individual earnings, or that uniform contributions shall be paid according to a standard specified by it; the constitution shall also specify the principles to be used in these cases.

ARTICLE 735.

The constitution may provide that in the case of a person giving orders to a home worker, he shall pay the contributions of those employed in home work by the home worker, and if the latter himself is insured according to the constitution, the person giving orders shall also pay for him.

ARTICLE 736.

PARAGRAPH 1. Contributions may not be collected from members nor shall funds from the property of the accident association be employed for purposes other than—

For covering the cost of the compensation and the cost of administration;

For the accumulation of a reserve (arts. 741 to 748);

For the payment of the advances to the post office (art. 728) and for the refunding and interest of the floating debt (art. 779);

For rewards in the case of rescuing injured persons;

For accident prevention;

For securing employment for persons injured by accident;

For the establishment of medical or convalescent institutions;

For the establishment of institutions of the kind specified in article 607.

PAR. 2. If according to article 720 the approval of the Imperial Insurance Office is required for the purposes therein designated, such approval is also required for the collection of contributions for such purposes.

PAR. 3. These provisions are correspondingly applicable to insurance associations (*Versicherungsgenossenschaften*).

ARTICLE 737.

PARAGRAPH 1. Newly created accident associations may collect in advance from its members for the first year the funds which are necessary to defray the cost of administration and to pay the post-office advance.

PAR. 2. If the constitution does not provide otherwise, these contributions shall be based on the number of persons subject to the insurance who are employed in the establishments of the members.

ARTICLE 738.

PARAGRAPH 1. The constitution may provide that the members shall pay advances on the contributions (art. 731).

PAR. 2. The constitution may provide that the directorate shall be entitled to collect advances from—

(a) Establishments which apparently will exist only temporarily;

(b) Individual members who have been repeatedly in arrears in the payment of the contributions.

PAR. 3. The advances shall be collected from the individual members according to the amount of those contributions which were assessed upon them for the preceding fiscal year or were paid according to article 734.

PAR. 4. The advances of new members are to be based on the amount which they would have had to pay as members, according to the scope of their establishment, for the cost of the preceding fiscal year.

PAR. 5. The constitution or the general meeting of the accident association shall specify the date of payment; two weeks thereafter the advance must have been paid to the directorate.

ARTICLE 739.

If the highest postal officials make use of their right to collect advances (art. 728), the constitution may provide that the requisite funds, in so far as they are not available out of the assessment for the preceding fiscal year (art. 749), are to be collected from the members of the current fiscal year through contributions (art. 731).

ARTICLE 740.

PARAGRAPH 1. The directorate may collect from the undertakers of establishments whose seat is located in a foreign country, contributions of double amount and require them to give security if they carry on in Germany an establishment subject to the insurance for a time only.

PAR. 2. This provision is correspondingly applicable to branch institutes and insurance associations for the keeping of riding animals or conveyances.

ARTICLE 741.

The accident associations must accumulate reserves.

ARTICLE 742.

PARAGRAPH 1. The reserve shall be formed by means of supplementary charges reckoned on the amounts paid out as compensation.

PAR. 2. There shall be collected—

In the first assessment, 300 per cent;
In the second, 200 per cent;
In the third, 150 per cent;
In the fourth, 100 per cent;
In the fifth, 80 per cent;
In the sixth, 60 per cent;
In the seventh to the eleventh each time 10 per cent less.

PAR. 3. The interest shall also be turned into the reserve.

ARTICLE 743.

PARAGRAPH 1. After the first 11 years, or if this period had already expired at the time of the coming into force of the industrial accident insurance law (Reichs-Gesetzblatt, 1900, p. 585) then from year 1901 on, the supplementary charge shall be so measured that

in the following 21 years the capital of the reserve shall be equal to three times the compensation which is to be paid in the year of the last supplementary charge.

PAR. 2. If an accident association in the 21 years would have to collect unreasonably high supplementary charges, then the Imperial Insurance Office can extend the period not more than 10 years.

PAR. 3. The Imperial Insurance Office specifies the amount of the supplementary charge which the accident association has to collect.

ARTICLE 744.

PARAGRAPH 1. The interest on the reserve received in the intermediate period (art. 743) may be used to cover the current expenditures. After the expiration of this period those amounts are to be taken from the interest which are necessary to prevent the further increase in the assessments which according to experience would be charged on the average on each 100 marks [$23.80] of earnings. The remainder of the interest is to be added to the reserve until the reserve is equal to one-half of the capital necessary to cover the compensation liabilities at the period in question.

PAR. 2. In special cases the Imperial Insurance Office may specify which part of the interest shall be used for the reduction of the assessments and which part for the addition to the reserve.

PAR. 3. The Imperial Insurance Office shall also specify the manner in which the capitalized value of the liabilities for compensation is to be obtained.

ARTICLE 745.

The securities in which the reserve is invested are to be reported at their purchase price in determining the assets.

ARTICLE 746.

With the approval of the Imperial Insurance Office an accident association in case of need can draw on the capital of the reserve and also draw on the interest thereof before the expiration of the first 11 years. The reserve is then to be restored according to regulations of the Imperial Insurance Office.

ARTICLE 747.

The general meeting of the accident association may upon application of the directorate decide to make additional supplementary charges for the reserve at any time. Such decisions require the approval of the Imperial Insurance Office.

ARTICLE 748.

PARAGRAPH 1. Articles 742 to 747 are not applicable to the engineering and excavating association. The existing reserve, however, shall be maintained at its present amount; the interest thereon can be used to cover the liabilities of the accident association.

PAR. 2. With the approval of the Imperial Insurance Office the accident association may in case of need draw on the capital of the reserve. It shall then be restored according to provisions of the Imperial Insurance Office.

III. PROCEDURE IN ASSESSMENTS AND COLLECTIONS.

ARTICLE 749.

PARAGRAPH 1. The directorates of the accident associations must assess upon the members the payments which the highest postal authorities prove to have been made (art. 777), together with the other expenditures, according to the standard of apportionment already determined upon. In such case the provisions concerning the division and joint carrying of the cost (arts. 713 to 716) are to be considered and the advances already collected to be deducted.

PAR. 2. Article 764 applies to the engineering and excavating association; article 731, paragraph 3, article 763, and articles 799 to 842 are applicable to the branch institutes; article 731, paragraph 3, and article 842, paragraph 2, are applicable to the insurance associations.

ARTICLE 750.

PARAGRAPH 1. For the purpose of the assessment and the collection of the contributions each member, unless lump sums are used or uniform contributions are to be paid (art. 734) must transmit his wage list within six weeks after the close of the fiscal year to the directorate of the accident association.

PAR. 2. This wage list must contain—

1. The insured persons employed in the establishment during the preceding fiscal year and the earnings received by them;
2. If the wages actually earned are not used as a standard, a computation of the earnings which are to be used in the assessment of the contribution;
3. The risk class in which the establishment is rated.

PAR. 3. The constitution may specify that in place of the individual insured persons and the earnings received by them, the wage list shall contain the number of the insured persons and the total amount of earnings for the whole fiscal year or for shorter periods (summary wage list).

ARTICLE 751.

The constitution may provide—

That the wage list shall be transmitted either quarterly or semiannually;

That current wage lists (wage books) shall be kept from which this information can be taken;

That the wage lists (wage books) shall be preserved for three years.

ARTICLE 752.

In the case of members who do not transmit the wage lists punctually or whose lists are incomplete, the accident association shall itself either prepare the list or complete the same.

ARTICLE 753.

On the basis of the wage lists, the lump-sum payments and the uniform contributions, the directorate of the accident association shall prepare a total list of insured persons who have been employed by the members during the preceding fiscal year, and a statement of the earnings that can be included in the computation which the insured persons have received. On this basis it shall compute the contribution which falls to each member in order to cover the total expenditure.

ARTICLE 754.

PARAGRAPH 1. To each member shall be sent an extract from the assessment roll which shall be drawn up for the distribution of the annual expenditures of the accident association, together with the demand, that within two weeks he shall pay the contribution determined upon, from which shall have been deducted the advances paid, in order to avoid compulsory collection and in the case of voluntary insurance in order to avoid exclusion (art. 553), if the constitution permits this step.

PAR. 2. The extract must contain statements which will permit the person required to make a payment to verify the computation of the contribution.

ARTICLE 755.

PARAGRAPH 1. After the transmission of the extract, the accident association can then determine the contribution otherwise only if—

The classification of the establishment in the risk classes is changed at a later time;

A change in the establishment occurring in the course of the fiscal year becomes known afterwards;

The wage list proves inaccurate.

PAR. 2. If in such cases or on account of failure to report an establishment the accident association has lost contributions, then the undertaker shall at a later time pay the amount lacking, provided that the claim has not lapsed.

ARTICLE 756.

In the case of a new or subsequent determination of the contribution the procedure is the same as in the case of the first determination.

ARTICLE 757.

PARAGRAPH 1. Within two weeks the members may make protest against the determination of their contributions to the directorate, but remain obliged to make provisional payment.

PAR. 2. They are not required to make provisional payment if the earnings are already contained in the wage list for another accident association and the contributions which are based on these earnings have been paid to this accident association.

ARTICLE 758.

PARAGRAPH 1. If the directorate does not comply with the protest or does not comply to the extent applied for, then an appeal against its decision is permissible only subject to article 759.

PAR. 2. Appeals shall be based only upon—

Mistakes in computation;

Inadequate consideration of the rebates (art. 712);

Incorrect rates of earnings;

Inaccurate rating in a risk class.

PAR. 3. Protests on account of the last two reasons are not permissible if the directorate has itself drawn up the wage list or completed the same on account of the delay of the undertaker.

ARTICLE 759.

If claims are based on the reasons stated in article 757, paragraph 2, and the accident association declines to recognize them as well founded, it must place the matter before the superior insurance office. The latter shall decide to which accident association the earnings are to be reported and suspends a divergent determination of the contributions even if such determination has already become effective. An appeal against the decision of the superior insurance office effects a stay.

ARTICLE 760.

PARAGRAPH 1. If the contribution is reduced upon the appealing of a claim or upon protest, then the amount lost is to be included in the assessment for the succeeding fiscal year.

PAR. 2. Excessive payments are to be returned or to be deducted from the contribution for the succeeding fiscal year.

ARTICLE 761.

If it develops later that a contribution paid without a protest has been collected either wholly or partly without right, then the provisions of articles 757 to 760 are correspondingly applicable.

ARTICLE 762.

Uncollectible contributions shall be charged to the whole membership. They shall be covered for the time being out of the available

funds of the accident association, or if necessary, out of the reserve, and shall be considered in the assessment of the succeeding fiscal year.

ARTICLE 763.

In the case of accident associations to which a branch institute is attached the directorate of the accident association determines which part of the payments called for by the highest postal authorities is to be paid by the accident association and which part is to be paid by the branch institute.

ARTICLE 764.

PARAGRAPH 1. The engineering and excavating association shall pay that part which falls upon the accident association itself from its available funds.

PAR. 2. At the same time it must compute according to article 731, paragraph 2, the capitalized value of the burdens which have arisen for the association in the preceding fiscal year and collect the same from its members, together with the other expenditures according to the standard of apportionment already determined upon. In such case the provisions concerning the division and joint carrying of burdens, articles 713 to 716, are to be considered and the advances already collected to be deducted.

PAR. 3. In other matters articles 750 to 763 are applicable.

ARTICLE 765.

PARAGRAPH 1. If the undertaker of a building operation conducted as a business is in arrears with the payment of contributions and the execution procedure shows that he is bankrupt, then the local insurance office on application of the directorate of the accident association may order, with the right to revoke the same, that the person for whose account the building is done as well as subcontractors are in so far liable for the contributions during one year after their final determination, as they have arisen after the issuance of the order. For such cases the constitution may specify the particulars in regard to the keeping of wage lists to determine the amount of wages for which the person on whose account the building is being done or the subcontractor is liable.

PAR. 2. The liability of subcontractors takes precedence of that of the person for whose account the building work is done.

ARTICLE 766.

PARAGRAPH 1. An order of this kind must clearly designate the undertaker to whom it applies, giving his name, residence, and business establishment. The order shall be communicated not only to him but also to the police authorities, both of his residence and of the seat of his establishment if the latter is in a separate place.

PAR. 2. If the employer changes his residence or the seat of his establishment then the police officials shall notify the authorities who are competent for the new place of residence or seat of the establishment.

PAR. 3. The police authorities must, on request, give the parties affected information concerning the order.

ARTICLE 767.

PARAGRAPH 1. The undertaker must without delay give notice in writing concerning the order to the person on whose account the work is done. If he takes over a contract for building work then he must give notice thereof in advance. Subcontractors must without delay give information concerning the notice to the person giving the order.

PAR. 2. Whoever acts contrary to these provisions shall be punished with confinement in jail up to one year; in addition a fine up to 3,000 marks [$714] may be imposed. If he has acted negligently he shall be punished with a fine up to 100 marks [$23.80]. The penalty is only imposed if the person giving the order suffers damage as a result of the contravention.

ARTICLE 768.

The local insurance office shall suspend the order whenever it has been proved to it through certificate of the directorate that the undertaker is no longer in the debt of the accident association.

ARTICLE 769.

The superior insurance office decides finally upon appeal against—

Decrees of the local insurance office;

Refusals to issue such decrees;

Decisions of the local insurance office on the cancellation of the decree.

ARTICLE 770.

In controversies between the accident association and the person on whose account the building work is done or the subcontractors in regard to the liability in such cases (art. 765) the superior insurance office (decision chamber) shall decide; appeal to the regular courts is not permitted.

ARTICLE 771.

Articles 765 to 770 are correspondingly applicable for establishments conducted as a business engaged in hauling, inland navigation, and inland fishing. In such cases the proprietor of the apparatus used in the business takes the place of the person on whose account the building work is done and of the person giving the order. In case there are several proprietors they are liable as collective debtors.

ARTICLE 772.

PARAGRAPH 1. The highest administrative authorities of the federal State may specify that before the beginning of the building work the persons on whose account the work is done shall furnish guaranties to the building accident association for the payment of the contributions or the premiums.

PAR. 2. They shall also specify at the same time the communes and the building operations to which this provision is applicable.

PAR. 3. For such building operations the building permit shall be issued only if the accident association certifies that the guaranty has been provided.

ARTICLE 773.

The accident association shall determine the kind and the amount of the guaranty; the amount is to be proportioned according to the probable wage payments for the insured building workers. The Imperial Insurance Office shall issue general regulations.

ARTICLE 774.

The person for whose account the building work is done may apply for the return of the guaranties from the accident association whenever the building work is carried out by building contractors for whom he is not liable (art. 765).

ARTICLE 775.

The highest administrative authorities may withdraw their regulations (art. 772).

ARTICLE 776.

In controversies between the accident associations and persons for whom building work is done in the cases mentioned in articles 772 to 775, the superior insurance office shall decide; appeal to the regular courts is not permissible.

IV. TRANSFERRING AMOUNTS TO THE POST OFFICE DEPARTMENT.

ARTICLE 777.

PARAGRAPH 1. Within eight weeks after the end of each fiscal year the highest postal authorities shall report to the directorates of the accident associations the payments made on their account and shall designate the post offices to which these amounts are to be refunded.

PAR. 2. After acknowledgment by the directorates of the accident associations of the amounts demanded, the highest postal authorities shall notify the accounting bureau of the Imperial Insurance Office of the amounts which have been paid in the preceding fiscal year for each accident association.

PAR. 3. The accounting bureau balances the actual amounts which are to be refunded to the Post Office Department.

ARTICLE 778.

If an accident association does not have to pay an advance to the Post Office Department, then the directorate of the accident association shall transmit the amounts which it has to pay to the Post Office Department within three months after the receipt of the demand to the offices designated therein.

ARTICLE 779.

Payments for compensation which the Post Office Department made in the year 1909 for an accident association are to be treated as the floating debt of the latter, and must have 3½ per cent interest paid thereon, and are to be refunded at the rate of 3½ per cent, together with the interest saved. The Empire shall defray two-fifths of these amounts of interest and refunding, while the accident associations have to transmit three-fifths to the Post Office Department in July of each year, together with the partial amounts of the postal advance then due.

ARTICLE 780.

PARAGRAPH 1. The size of the postal advance and the amount to be paid according to article 779 shall be determined for each accident association by the accounting bureau of the Imperial Insurance Office, and a statement thereof shall be communicated to the accident associations and to the highest postal authorities.

PAR. 2. For the computation of the postal advance the highest postal authorities communicate to the accounting bureau the amount of the payments in the preceding fiscal year which have been authorized by the directorates of the accident associations. Until the amount of the new postal advance has been determined the partial amounts shall continue to be paid in the same amounts as heretofore. These amounts shall be deducted when the new advance has been determined upon.

ARTICLE 781.

If the claims of the Post Office Department are not paid punctually by the accident associations, then the Imperial Insurance Office, upon application of the Post Office Department, shall institute proceedings for compulsory collection.

ARTICLE 782.

In order to cover the claims of the Post Office Department the Imperial Insurance Office shall first make use of the available assets in the treasury of the accident association. In so far as these assets are not sufficient, proceedings for compulsory collection against the members of the accident asssociation shall be instituted and continued until the arrears are covered.

Section Seven—Branch Institutes.

I. Branch institutes for the building trades.

1. Establishment, scope, and organization.

Article 783.

Paragraph 1. Those persons shall be insured in the branch institutes attached to an accident association of persons carrying on building work, who are employed in such work by the undertaker carrying on building work otherwise than as a business in the district of the accident association (art. 633, par. 2, No. 1).

Par. 2. The same shall be applicable in the case of self-insured undertakers engaged in such building work.

Article 784.

The branch institutes may not undertake other kinds of insurance.

Article 785.

In addition to the building work for which they have been established, the branch institutes of the building trades accident associations may have transferred to them building work on railways, canals, roads, streams, dikes, and other building operations in their district if an undertaker engaged in building work not conducted as a business (art. 633, par. 2, No. 1) executes such work and if not more than six working days are actually covered by each separate piece of work.

Article 786.

The administrative bodies of the accident association shall administer the branch institute if the constitution of the latter does not provide otherwise (art. 794).

Article 787.

Paragraph 1. The income and expenditures of the branch institute are to be accounted for separately, and the assets are also to be kept separately.

Par. 2. A special reserve must be accumulated for the branch institute. It may not be used for the purposes of the accident association.

Article 788.

Paragraph 1. The rest of the property which is intended for the branch institute may be used for the accident association only with the approval of the Imperial Insurance Office.

Par. 2. The approval for this purpose may only be granted if the part of the property which remains in the branch institute will probably be sufficient to cover permanently the liabilities already outstanding against the branch institute.

Article 789.

In so far as it is necessary the accident association must advance out of its own reserve, the funds for the business operation of the branch institute.

Article 790.

Paragraph 1. The branch institute must collect for the costs of administration such sums as are actually required for its separate administration.

Par. 2. With the approval of the Imperial Insurance Office, a lump sum may in addition be imposed on it as its share of the joint costs of administration.

Article 791.

The branch institute must share in the advance which the accident association has to make to the Post Office Department (art. 728) according to the proportion of the compensation payments which the Post Office Department in the preceding fiscal year has paid out for the accident association and for the branch institute.

ARTICLE 792.

PARAGRAPH 1. The general meeting of the accident association must establish for the branch institute a constitution of its own.

PAR. 2. In the discussions on this subject a representative of the Imperial Insurance Office must be present and, upon his demand, must be heard at any time.

ARTICLE 793.

The constitution of the branch institute must contain provisions concerning—

1. The obligation to give notice on the part of the undertakers designated in article 633, paragraph 2, No. 1, who wish to insure themselves, as well as the amount and the computation of the annual earnings of these undertakers;
2. Delimitation of the rights of the directorate and of the general meeting of the accident association in the administration of the branch institute;
3. Accumulation of the reserve;
4. Drawing up, examining, and accepting of the annual balance sheet;
5. Publication of the annual accounts;
6. Amending the constitution of the branch institute.

ARTICLE 794.

PARAGRAPH 1. The constitution of the branch institute may specify that it shall be administered through separate administrative bodies.

PAR. 2. In such case it shall also specify the seat of these administrative bodies, their composition, their districts, and the scope of their rights.

ARTICLE 795.

The general meeting of the accident association may transfer to the directorate of the accident association the delimitation of the districts of the separate administrative bodies and the election of their members.

ARTICLE 796.

The constitution of the branch institute and its amendments require the approval of the Imperial Insurance Office. If the approval shall be refused, the decision senate shall decide the matter; the reasons for the refusal are to be communicated. If the approval has been refused, then on appeal the Federal Council shall decide.

ARTICLE 797.

The directorate of the accident association must publish the districts and the composition of the separate administrative bodies in the Reichsanzeiger.

ARTICLE 798.

The following building operations shall be insured in a branch institute:

1. Those operations in which the separate operations actually consume more than six working days (longer building work) to be insured at the expense of the undertaker (art. 633, par. 2, No. 1), with the use of fixed premiums according to the premium tariff (arts. 799 to 824);
2. Those operations in which the separate operations consume not more than six working days (short building work), to be insured at the expense of the communes or of the unions designated in articles 828 to 830 whose district is covered by the accident association; the payments therefor shall be made in the form of contributions which shall annually be assessed upon these communes or unions according to the expenditure of the preceding fiscal year.

2. Insurance at the expense of the undertakers—Premiums.

ARTICLE 799.

PARAGRAPH 1. For each month and not later than three days after the expiration thereof the undertakers of longer building operations must submit a report to the officials designated by the highest administrative authorities in whose district the building work is carried out concerning the following:

1. The number of working days on which operations were conducted;
2. The payments made to the insured persons therefor.

PAR. 2. The Imperial Insurance Office shall prescribe the form of this report.

ARTICLE 800.

PARAGRAPH 1. If this report is not sent in or is incomplete, the authorities shall make it out or complete it according to their own knowledge of the conditions.

PAR. 2. For this purpose they may require those subject to this provision to give the information within a specified time under penalty of a fine up to 100 marks [$23.80].

ARTICLE 801.

PARAGRAPH 1. The authorities must transmit the reports within two weeks after the expiration of the quarter of the calendar year through the channels of the local insurance office to the directorate of the accident association or to the administrative body of the accident association designated by the latter.

PAR. 2. In this connection the authorities (art. 799) must certify that nothing is known to them concerning the execution of other building work in their district concerning which reports should be made.

ARTICLE 802.

The tariff of premiums must show what unit rate must be paid in premiums for each one-half mark [11.9 cents] of computable wages or fraction thereof.

ARTICLE 803.

If the accident association graduates the contributions in the risk tariff according to the class of building work, then the same proportion must also be used for the unit rates of the premiums.

ARTICLE 804.

PARAGRAPH 1. The Imperial Insurance Office determines in advance the tariff of premiums at least every five years for each accident association after hearing the directorate thereof.

PAR. 2. The following factors shall be used as the basis for this purpose:

The capitalized value of the benefits which a branch will probably have to pay on account of accidents in connection with longer building operations, based on an annual average;

The supplementary charges for the creation of the reserve;

A lump sum for the costs of administration of the branch institute which are to be computed according to the annual average of the preceding tariff period after deducting the share for shorter building operations (art. 832). The Imperial Insurance Office shall specify the details in this connection.

PAR. 3. In this connection the interest on the reserve shall be deducted, provided that according to the constitution of the branch institute the interest does not accrue to the institute itself.

ARTICLE 805.

The Imperial Insurance Office shall publish the tariff of premiums in the Reichsanzeiger and in the papers which are designated for official announcements of the highest or superior administrative authorities in whose district the tariff shall be in force.

ARTICLE 806.

The tariff shall come into force not earlier than two weeks after its publication.

ARTICLE 807.

After each quarter of the calendar year the directorate of the accident association shall compute on the basis of the tariff of premiums and the reports, the premiums to be paid by each undertaker and shall draw up the assessment roll.

ARTICLE 808.

If the earnings of the insured persons per day of building work are lower than the local wage rate specified for adults in the place of employment, then the premiums shall be computed according to the latter.

ARTICLE 809.

Extracts from the assessment roll are to be forwarded to the communes with the request that they shall collect the premiums from the undertakers in their district and within one month transmit the same to the competent administrative body of the accident association after deduction of the postal fee.

ARTICLE 810.

PARAGRAPH 1. The accident association must grant a fee to the communes for the collection of the premiums, and the amount of this fee shall be determined by the highest administrative authorities acting in agreement with the Imperial Insurance Office.

PAR. 2. No fee shall be granted for a commune's own building operations.

ARTICLE 811.

For those premiums which the communes can not prove are actually lost or are impossible of collection by compulsory execution, the communes are liable and must forward them in advance.

ARTICLE 812.

PARAGRAPH 1. The extract from the assessment roll must contain statements which will enable the person required to pay the premiums to verify the computation thereof.

PAR. 2. If it is afterward shown that the report of earnings was incorrect then the same regulations shall be applicable for the premiums as in the case of contributions due the accident association (arts. 756 and 757).

ARTICLE 813.

PARAGRAPH 1. The communal authority shall make the extract available for inspection to the persons affected, for two weeks, and shall make known the beginning of the period in the manner customary in the locality.

PAR. 2. They may also forward the extract to the persons affected instead of leaving it open for inspection.

ARTICLE 814.

The persons required to make payments may make protest against the computation of the premiums to the directorate of the accident association or to the other competent administrative body (art. 794) within two weeks after the expiration of the period stated in article 813, paragraph 1, or after the delivery thereof; the person required to make payment, however, is obliged to pay the same for the time being. In such cases article 757, paragraph 2, and article 759, are correspondingly applicable.

ARTICLE 815.

PARAGRAPH 1. Subject to article 814, sentence 2, the protest may only be based upon the following:

Mistakes in computation.
Incorrect statement of wages.
Incorrect use of the tariff of premiums.
The assertion that no obligation for the payment of premiums exists.

PAR. 2. The protest may not be based upon incorrect statement of earnings if the authority has itself drawn up the same or completed it because of the failure of the person obligated to make such report.

ARTICLE 816.

Against the decision issued by the superior insurance office upon appeal, further appeal is permissible only if the appellant shows that he is not obligated to make payments of premiums.

ARTICLE 817.

If it later develops that an amount paid without protest was collected either wholly or in part incorrectly, then articles 814 to 816 shall be correspondingly applicable.

ARTICLE 818.

Premiums which may not be collected are, in case of need, to be covered out of the reserve of the branch institute and are to be considered in determining the next tariff of premiums.

ARTICLE 819.

PARAGRAPH 1. The owner of a building is liable for a period of one year for the premiums and other payments of bankrupt undertakers after the obligation has been finally determined.

PAR. 2. The liability of the subcontractors takes precedence of that of the building owner.

ARTICLE 820.

In case the building owner has given security to the accident association according to official regulations of the State authorities (art. 772), then the association is also liable for the premiums and other payments which the building owner must pay according to article 798, number 1, as an undertaker, or must pay according to article 819 on account of bankrupt undertakers.

ARTICLE 821.

If controversies arise between the accident association (branch institute) and building owners or subcontractors in regard to the liability, then the superior insurance office (decision chamber) shall decide; appeal to the regular courts is not permissible.

ARTICLE 822.

The accident association may not demand on behalf of the branch institute any payments from the undertakers except premiums, fines, and costs, which are to be collected in accordance with this law.

ARTICLE 823.

PARAGRAPH 1. If communes, unions of communes, public corporations, and other building owners regularly carry out building operations without making use of other undertakers, then upon their application a lump sum based on the average annual number of working days can be determined upon in place of the earnings according to which premiums are to be computed.

PAR. 2. At the same time the date when the premiums are to be paid must be determined.

PAR. 3. In such cases the provisions concerning monthly reports (arts. 799 to 801) and the quarterly computation and the collection of the premiums (arts. 807 to 811) are not applicable.

ARTICLE 824.

Whenever the share of the branch institute in the amounts which are to be paid to the Post Office Department arise from accident caused by longer building operations, the funds for the replacement thereof shall be taken from the available cash in premiums.

3. Insurance at the cost of communes.

ARTICLE 825.

PARAGRAPH 1. The funds for covering amounts paid for compensation and costs of administration which accrued to a branch institute on account of accidents in short building operations shall be raised by annual assessment upon the communes in proportion to the population in the districts included in the accident association.

PAR. 2. If the branch institute has participated in the advance of the accident association to the Post Office Department, then on this account an advance may be assessed upon the communes equal in amount to the contributions of the preceding fiscal year.

PAR. 3. Beginning with the fiscal year which follows the last census, the number of inhabitants officially determined by it shall be used as a basis.

ARTICLE 826.

An extract from the assessment roll is to be forwarded to the communes with a request for the payment of the amount determined upon within two weeks under penalty of compulsory collection.

ARTICLE 827.

PARAGRAPH 1. The extract must contain statements which will enable those obligated to make the payment to verify the computation.

PAR. 2. Protests and appeals are subject to the same provisions as in the case of the accident association (art. 757, par. 1, arts. 758, 760, and 761); however, protests are permissible only if they are based upon mistakes in computation or upon errors in the statement of the population.

ARTICLE 828.

PARAGRAPH 1. The highest administrative authority may decree that unions of communes may take the place of the communes or in specified districts several communes may jointly assume the costs which accrue to them on account of the accident insurance with the branch institute.

PAR. 2. This authority shall specify at the same time how such unions shall be represented and administered and shall specify the principles upon which the joint cost is to be apportioned to the individual communes.

ARTICLE 829.

The highest administrative authority may in addition provide that administrative districts shall take the place of the communes in the assessment and in such case how the amount assessed shall be apportioned to the individual communes.

ARTICLE 830.

PARAGRAPH 1. In so far as the highest administrative authority has not issued such regulations the communes may unite themselves on their own initiative for taking over the costs which accrue to them on account of accidents in short building operations.

PAR. 2. They shall at the same time specify how the union is to be represented and administered. The union must have the approval of the highest administrative authority.

ARTICLE 831.

The decrees and the agreements of these unions (arts. 828 to 830) are to be communicated to the accident associations affected and to the Imperial Insurance Office.

ARTICLE 832.

The amount of the costs of administration which are to be assessed upon the communes and the unions shall be determined in a corresponding manner as in the case of insurance at the cost of the unundertaker (art. 804).

ARTICLE 833.

Within the individual communes or unions of communes the costs arising out of the insurance of short building operations shall be collected in the same way as communal taxes.

ARTICLE 834.

PARAGRAPH 1. The State laws or legal enactments of the individual communes or of a union of communes can specify another standard of apportionment and especially specify that the owners of land or buildings shall bear the cost.

PAR. 2. Legal provisions of this kind shall require the approval of the superior administrative authority.

ARTICLE 835.

The communes or other unions have no claim to the reserve of the branch institute on account of the costs which accrue to them through the insurance of short building operations.

II. BRANCH INSTITUTES FOR THE KEEPING OF RIDING ANIMALS AND CONVEYANCES.

ARTICLE 836.

PARAGRAPH 1. Those persons shall be insured in the branch institute which is attached to an accident association of undertakers of establishments engaged in hauling or inland navigation as a business who are employed in the district of the accident association in establishments for the keeping of riding animals or conveyances not conducted as a business (art. 537, Nos. 6 and 7).

PAR. 2. The same rule applies in the case of self-insured undertakers in such activities.

PAR. 3. In the case of conveyances on water these activities shall be insured in the branch institute of the accident associations for inland navigation; in other cases in the branch institute of the accident association for hauling establishments conducted as a business: *Provided*, That the Federal Council does not enact other provisions in accordance with article 629, paragraph 2.

ARTICLE 837.

PARAGRAPH 1. The general meeting of the accident association may provide that instead of one several branch institutes may be created for individual areas of their district.

PAR. 2. Such provisions shall require the approval of the Imperial Insurance Office; they are to be published in the Reichsanzeiger.

ARTICLE 838.

In the branch institutes insurance at the cost of the undertakers (art. 633, par. 2, No. 2) shall be for premiums according to a tariff of premiums.

ARTICLE 839.

PARAGRAPH 1. The undertakers must make a report for each quarter of a calendar year and not later than three days after the expiration thereof to the authority in whose district the activities are carried on, and who shall be specified by the highest administrative authority, concerning the following subjects:

1. The working days on which operations were conducted;
2. The payments made to the insured persons therefor.

PAR. 2. The Imperial Insurance Office shall prescribe the form for the report.

PAR. 3. Persons neglecting to make such reports shall be proceeded against as in the case of the branch institutes for building work (art. 800).

ARTICLE 840.

PARAGRAPH 1. The authority shall, within two weeks after the expiration of the quarter of the calendar year transmit these reports through the channels of the local insurance office to the directorate of the accident association or the administrative body of the accident association designated by the latter.

PAR. 2. In connection therewith the authority (art. 839) shall certify that nothing further has become known to them concerning the keeping of riding animals or vehicles (art. 537, numbers 6 and 7) not conducted as a business, in their district.

ARTICLE 841.

The tariff of premiums must show what unit rate of premiums must be paid for each one-half mark [11.9 cents] or fraction thereof of computable earnings.

ARTICLE 842.

ARAGRAPH 1. In other matters the provisions for branch institutes for building work (arts. 784, 786 to 797, 803 to 818, and 822 to 824) shall be applicable for these branch institutes.

PAR. 2. If an insurance association takes the place of a branch institute then articles 647, 648, and 736 shall be applicable to it, and the provisions for branch institutes contained in articles 803 to 818, 822 to 824, 836, paragraphs 1 and 2, and articles 838 to 841, shall be correspondingly applicable. The insurance association must also accumulate a reserve.

SECTION EIGHT.—ADDITIONAL INSTITUTIONS.

ARTICLE 843.

The accident associations may create institutions for—

1. Insurance against liability for undertakers (art. 633) and persons of like status.
2. Funds providing subsidies to pensions and funds for retirement pensions for establishment officials, members of the accident associations, insured persons, officials of the accident associations, and relatives of these persons.
3. The procuring of employment for persons injured by accident.

ARTICLE 844.

PARAGRAPH 1. The accident association shall be the carrier of these institutions.

PAR. 2. Participation in these institutions is voluntary.

ARTICLE 845.

Decisions of the general meeting of the accident association:

Concerning institutions of the kind designated in article 843, Nos. 1 and 2, and the by-laws thereof, must have the approval of the Federal Council.

Institutions of the kind designated in article 843, No. 3, must have the approval of the Imperial Insurance Office.

ARTICLE 846.

The supervision of these institutions shall be administered by the Imperial Insurance Office.

ARTICLE 847.

PARAGRAPH 1. Accident associations may unite to form such institutions in common.

PAR. 2. The agreement of union may only become effective at the beginning of a fiscal year.

PAR. 3. For the approval of such unions article 845 shall be correspondingly applicable.

SECTION NINE.—ACCIDENT PREVENTION—SUPERVISION.

I. REGULATIONS FOR ACCIDENT PREVENTION.

ARTICLE 848.

PARAGRAPH 1. The accident associations are obliged to issue the necessary regulations concerning—

1. The arrangements and orders which the members are required to provide for the prevention of accidents in their establishments.
2. The rules of conduct which the insured persons must observe for the prevention of accidents in the establishments.

PAR. 2. Regulations for the prevention of accidents may also be issued for individual districts, branches of industry, and kinds of establishments.

PAR. 3. In these regulations it must be specified in what manner they are to be made known to the insured persons.

PAR. 4. If workmen are employed in an establishment who are not familiar with the German language then the regulations for the prevention of accidents and the decrees of the mining inspection which replace them are to be made in another language: *Provided*, That together 25 persons speak such language.

ARTICLE 849.

If establishments belong to an accident association and these establishments because of their nature should have been apportioned to another accident association (arts. 540, 542, 631, and 632), then regulations for the prevention of accidents shall be issued for these establishments which correspond to the regulations of those accident associations to which the establishments because of their nature should have belonged.

ARTICLE 850.

An appropriate period of time is to be allowed to the members in order to institute the arrangements prescribed for the prevention of accidents.

ARTICLE 851.

Violations by the members of these regulations may be punished with fines up to 1,000 marks [$238], by the insured persons with fines up to 6 marks [$1.43].

ARTICLE 852.

A draft of the regulations is to be transmitted to the Imperial Insurance Office. If the accident association is divided into sections, the directorates of the sections affected must in advance render an opinion upon the draft.

ARTICLE 853.

PARAGRAPH 1. In the preparation and final decision upon these regulations the directorate of the accident association must call in representatives of the insured persons who shall have the full right to vote thereon and shall have the same number of votes as the members of the directorate participating.

PAR. 2. The same shall be correspondingly applicable for opinions in regard to protective regulations issued on the basis of article 120e, paragraph 2, of the Industrial Code.

ARTICLE 854.

The directorate of the accident association must invite the Imperial Insurance Office to the sessions in which the draft of the regulations is to be prepared and decided upon.

ARTICLE 855.

In case regulations for the prevention of accidents or protective regulations on the basis of 120e, paragraph 2, of the Industrial Code are applicable for individual sections only, then the directorates of these sections shall call in the insured persons for the purpose of securing their opinion. In such cases article 853, paragraph 1, shall be correspondingly applicable.

ARTICLE 856.

The draft of the regulations is to be communicated to the representatives of the insured persons at the same time that the invitation is sent for the meeting in which the regulations are to be discussed, or considered, or decided upon.

ARTICLE 857.

Once each year the directorate, which shall call in at the same time representatives of the insured persons (art. 853, par. 1) shall take cognizance of the reports of the technical supervisory officials and shall suggest measures which seem required for the improvement of the regulations for the prevention of accidents. In such cases article 854 is applicable.

ARTICLE 858.

PARAGRAPH 1. Representatives of the insured persons shall be elected from the associates of the superior insurance office in whose district the accident association or the section has members. Those associates of the superior insurance office only are entitled to election, however, who are competent to act as representatives of the insured persons and do not belong within the scope of the agricultural accident insurance or the navigation accident insurance.

PAR. 2. The mining accident association may in its constitution provide that the representatives of the insured persons must be elders of the miners. If this provision is enacted the representatives of the insured persons shall be elected from the elders of the miners' associations and miners' funds affected.

ARTICLE 859.

As representatives of the insured persons only those are eligible who are themselves insured according to this law against accident and are employed in an establishment which belongs to an accident association. In other respects article 12 is applicable.

ARTICLE 860.

PARAGRAPH 1. The Imperial Insurance Office shall issue the election rules.

PAR. 2. A representative of this office shall conduct the election.

ARTICLE 861.

For each representative of the insured persons a first and a second alternate must be elected. The alternate shall take his place if he is prevented from performing his duties and replace him for the remainder of his term of office if he leaves before this time, in the order according to which the election results.

ARTICLE 862.

The Imperial Insurance Office shall decide controversies concerning the validity of the election.

ARTICLE 863.

The chairman of the directorate shall determine the allowance (art. 21) for the representatives of the insured persons.

ARTICLE 864.

PARAGRAPH 1. The regulations for the prevention of accidents must have the approval of the Imperial Insurance Office; the decision senate shall decide thereon.

PAR. 2. The minutes of the proceedings of the directorates must accompany the application for the approval. The minutes must show how the representatives of the insured persons have voted; they must further contain an opinion of the directorates of the sections affected.

ARTICLE 865.

PARAGRAPH 1. An opportunity must be given to the highest administrative authorities affected to express an opinion before the approval is granted.

PAR. 2. Regulations for the prevention of accidents applying to establishments which are subject to the mining inspection may be approved only if the highest administrative authority acquiesces.

ARTICLE 866.

Even if the regulations for the prevention of accidents or parts thereof do not apply solely to individual sections, the Imperial Insurance Office may order that the directorates of the sections shall call in the representatives of the insured persons to secure their opinion before granting its approval.

ARTICLE 867.

If the general meeting of the accident association amends the decisions which the directorate and the representatives of the insured persons have made, then the Imperial Insurance Office shall specify whether the directorate, together with the representatives of the insured persons, shall again discuss and decide upon this matter.

ARTICLE 868.

If the Imperial Insurance Office makes its approval dependent on the amendment of the regulations, then it shall also specify whether the representatives of the insured persons shall be called in for discussion and for final decision.

ARTICLE 869.

The directorate of the accident association must communicate the regulations to the superior administrative authorities whose districts are affected.

ARTICLE 870.

The directorate of the accident association is authorized to determine the fines imposed upon members of the accident association, and the local insurance office (decision committee) for those imposed upon insured persons. The superior insurance office (decision chamber) shall decide upon appeal against the imposition of fines by the directorate of the accident association.

ARTICLE 871.

Those decrees which the State officials have issued for specified branches of industry or kinds of establishments for the prevention of accidents, must, in advance, be communicated to the directorates of the accident associations or of the sections for their opinions, provided that there is no risk in the delay. In such cases the representatives of the insured persons are to be called in in the same manner as in the discussion of the regulations for the prevention of accidents.

ARTICLE 872.

The police authorities must communicate to the accident association affected those orders which they enact for the prevention of accidents according to article 120d, paragraph 1, of the Industrial Code.

ARTICLE 873.

Whenever the matter concerns the issuance of regulations for the prevention of accidents which at the same time are intended to assure the safe operation of railways, then articles 852 to 856, 866 to 868, 871, and 872 are not applicable.

II. SUPERVISION.

ARTICLE 874.

The accident associations must provide for the execution of the regulations for the prevention of accidents.

ARTICLE 875.

The accident associations are authorized, and upon demand of the Imperial Insurance Office, are obligated to appoint technical supervisory officials in sufficient number to supervise the carrying out of the regulations for the prevention of accidents and to take cognizance of the arrangements of the establishments in so far as this is of importance in regard to membership in the accident association or for the classification in the risk classes. For such officials those persons may also be appointed who have formerly belonged to the insured establishments as workmen.

ARTICLE 876.

In order to verify the wage reports which have been handed in, the accident associations may inspect, through their accounting officials, those books and lists from which the number of workmen and officials employed and the amount of the wages earned are computed.

ARTICLE 877.

The business of the technical official and of the accounting official may, with the approval of the Imperial Insurance Office, be united in one person.

ARTICLE 878.

The undertakers are obligated to permit the technical supervisory officials of their accident association to enter the place of their business during business hours and are obligated to lay before the accounting officials the books and lists (art. 876) in such place.

ARTICLE 879.

PARAGRAPH 1. The Imperial Insurance Office may force the undertakers to comply with their duties arising out of article 878 upon the application of any person participating in the supervision, by the imposition of fines up to 300 marks [$71.40].

PAR. 2. The superior insurance office decides finally upon appeal.

ARTICLE 880.

The undertaker may demand special experts instead of the technical supervisory officials if he fears, on account of the latter's inspection, some damage to his trade secrets or other injury to his business activities.

ARTICLE 881.

PARAGRAPH 1. In such cases the undertaker must, as soon as possible, designate to the directorate of the accident association several persons who are competent and ready to inspect the establishment at his expense and to give the accident association the necessary information.

PAR. 2. The Imperial Insurance Office shall decide, upon request, if the parties can not agree in the matter.

ARTICLE 882.

The local insurance office of the place of residence shall put under oath the members of the administrative bodies of the accident associations, the technical supervisory and accounting officials, as well as the special experts, to keep secret all matters which become known to them through the supervision of the establishments or through the examination of the books or lists, as well as not to make an unauthorized use of business and trade secrets.

ARTICLE 883.

PARAGRAPH 1. The directorate of the accidents association must report the name and residence of the technical supervisory and accounting officials to the superior administrative authorities affected.

PAR. 2. The directorate must make reports to the Imperial Insurance Office concerning the activities of the technical supervisory officials and, upon request, to the State supervisory officials (art. 139b of the Industrial Code).

ARTICLE 884.

PARAGRAPH 1. If the supervisory official of the accident association has received information concerning orders which the State officials have issued for the prevention of accidents, then he may not give orders in conflict therewith.

PAR. 2. If, however, he believes a conflicting order necessary or considers an order of the State officials inconsistent with a regulation for the prevention of accidents, he shall report thereon to the directorate of the accident association. The latter may then call upon the superior officers of the State officials.

ARTICLE 885.

PARAGRAPH 1. If the State supervisory official considers orders of the accident association as conflicting or inconsistent with the regulations for the prevention of accidents, then the official shall communicate the fact to the directorate of the accident association.

PAR. 2. If the directorate considers the protest unfounded, it may call upon the superior officers of the State officials.

ARTICLE 886.

The directorate of the accident association must transmit to the Imperial Insurance Office information concerning all proceedings which concern differences of opinion between the two sets of supervisory officials.

ARTICLE 887.

If on account of the negligence of an undertaker the accident association incurs cash expenditures on account of the supervision of his establishment or on account of the examination of his books and lists then the directorate may charge these costs to the undertaker and in addition impose upon him fines up to 100 marks [$23.80]. The costs shall also be collected in the same manner as communal taxes.

ARTICLE 888.

With the consent of the association and under an agreement as to the costs the local insurance office may assist the accident association in regard to the supervision of those receiving pensions. In this matter the decision committee shall decide. If the committee declines then on appeal the superior insurance office shall decide finally.

ARTICLE 889.

The undertakers are required to permit the permanent members of the Imperial Insurance Office authorized by the Imperial Insurance Office to enter their places of work during the hours of operation, in order to determine the administration and effect of the regulations for the prevention of accidents which have been issued (art.

848). The Imperial Insurance Office may enforce the compliance of this obligation up to 300 marks [$71.40].

II. SPECIAL PROVISIONS FOR BUILDING OPERATIONS AND FOR THE KEEPING OF RIDING ANIMALS AND CONVEYANCES.

ARTICLE 890.

PARAGRAPH 1. Regulations for the prevention of accidents are also to be issued for activities in connection with building operations not carried on as a business and for the keeping of riding animals and conveyances not carried on as a business (art. 537, Nos. 6 and 7).

PAR. 2. That accident association is competent in whose branch institute the persons employed in such activities are insured. If they are insured in an insurance association, then the latter is competent.

ARTICLE 891.

PARAGRAPH 1. Subject to the following provisions, articles 848 to 889 shall be applicable also for these activities.

PAR. 2. In case of violations of the regulations for the prevention of accidents, fines up to 100 marks [$23.80] may be imposed on the undertakers of short building operations.

PAR. 3. In an insurance association, the representatives of the insured persons are elected from the associates of the superior insurance office over whose districts the accident association or section extends; in this case article 858, paragraph 1, sentence 2, shall be applicable.

SECTION TEN.—ESTABLISHMENTS AND ACTIVITIES FOR THE ACCOUNT OF PUBLIC BODIES.

ARTICLE 892.

PARAGRAPH 1. If the Empire or a federal State is a carrier of the insurance, then it shall take the place of the accident association and assume the rights and duties of the administrative bodies of the accident association through administrative authorities. For the military administration, the latter shall be specified by the highest military administrative authority of the division of the army, for the other administrations of the Empire, the imperial chancellor, and for the State administration, the highest administrative authority.

PAR. 2. The same rule shall be applicable for communes, unions of communes, and other public bodies which are carriers of the insurance. The highest administrative authority shall specify the officials for the execution hereof.

ARTICLE 893.

PARAGRAPH 1. The Imperial Insurance Office shall be informed concerning the administrative authorities.

PAR. 2. The administrative authorities already authorized shall continue to act.

ARTICLE 894.

If the Empire, the federal State, the commune, the union of communes, or another public corporation, is a carrier of the insurance, then the following articles are not applicable:

The provisions relating to changes in the status of the accident association (arts. 635 to 648);

The provisions in regard to the constitution of the accident association contained in articles 649 to 720;

The regulations concerning supervision (arts. 722 to 725);

The provisions concerning the collection of funds as well as concerning the procedure in regard to assessments and collections (arts. 731 to 776);

The provisions in regard to transferring amounts to the Post Office Department in articles 781 and 782;
The provisions concerning branch institutes (arts. 783 to 842);
The provisions in regard to additional institutions (arts. 843 to 847);
The provisions in regard to accident prevention and supervision in articles 848 to 887, and 889 to 891;
The penal provisions in articles 908 to 910, 912 and 913.

ARTICLE 895.

Whoever designates the administrative authorities shall also issue the administrative regulations in order to execute the provisions of this section.

ARTICLE 896.

The administrative provisions may extend the insurance obligation to establishment officials with annual earnings of more than 5,000 marks [$1,190], in so far as the latter are not exempt from insurance according to article 554.

ARTICLE 897.

PARAGRAPH 1. If the administrative authority in order to prevent accidents wants to issue regulations with penal provisions covering insured persons, then not less than three representatives of the insured persons shall be called in for discussion and advice.

PAR. 2. A representative of the authority shall conduct the discussion; he may not be the immediate official superior of the representatives just mentioned.

PAR. 3. In so far as the matter concerns the issuing of regulations which are intended to assure the safe operation of railways, the above is not applicable.

SECTION ELEVEN.—LIABILITY OF UNDERTAKERS AND THEIR REPRESENTATIVES.

I. LIABILITY TO INJURED PERSONS AND SURVIVORS.

ARTICLE 898.

The undertaker (art. 633) is liable to injured persons and their survivors (art. 588 to 594) even if they have no claim to a pension, according to other legal provisions for the compensation of injuries which an accident of the kind designated in articles 544 and 546 has caused, only if it has been determined by the penal decision that he has purposely caused the accident. The liability of the undertaker is then limited to the amount by which such compensation exceeds that of the accident insurance.

ARTICLE 899.

The same rule is applicable in the case of compensation claims of injured persons and their survivors against the authorized agents or representatives of the establishment and against the overseers of the establishment and of the workmen.

ARTICLE 900.

The claim may also be made valid if on account of the death, absence, or of a cause other than that which rests in the person of the one obligated, no penal decision has been delivered.

ARTICLE 901.

PARAGRAPH 1. If the regular court must decide in regard to such claims, then the court is bound by the decision which has been delivered in a procedure according to this law, as to the following points:

Whether an accident which entitles to compensation has occurred;
To what extent and by what carrier of the insurance, the compensation is to be granted.

PAR. 2. The regular court shall suspend its procedure until the decision in the procedure according to this law has been rendered. This, however, does not apply to arrests and acts for the time being.

ARTICLE 902.

Instead of the person entitled to the compensation, the undertakers or persons of like status according to article 899, from whom the injured person or his survivors demand compensation for injuries, may apply for the determination of the compensation according to this law, and may also make use of legal remedies. The lapse of time limits which, without their fault, have expired, shall not act against them; this shall not apply for time limits of procedure in so far as the undertaker or person of like status according to article 899 shall himself conduct the procedure.

II. LIABILITY TO ACCIDENT ASSOCIATIONS, SICK FUNDS, ETC.

ARTICLE 903.

PARAGRAPH 1. If it is determined by a penal decision that the undertaker or person of like status according to article 899 has caused the accident either purposely or negligently through failure to observe such care to which they are especially obligated on account of their office, occupation, or industry, then they are liable for everything which the communes, poor law unions, sick funds, miners' associations, miners' funds, substitute funds, and funeral or other relief funds have had to expend because of the accident according to the law or constitution. Instead of the pension the capitalized value thereof may be demanded.

PAR. 2. They are also liable—

If it has been determined by the penal decision that in the direction or execution of a building operation they have acted contrary to the generally recognized rules in building work;

If the accident has been caused through such violations.

PAR. 3. The provisions of article 900 in regard to liability without determination by penal decision are also applicable for these claims.

PAR. 4. Undertakers and persons of equal status according to article 899 are liable to the accident association for its expenditures, even if there has been no determination by penal decision.

ARTICLE 904.

PARAGRAPH 1. For accidents caused by the persons named below, the following bodies are liable as undertakers, if the persons so named have performed duties belonging to them; the bodies liable and the persons for whom liability attaches are—

1. A stock company, mutual insurance association, a registered cooperative society, a guild, or other legal person, for a member of the directorate;
2. A company with limited liability, for a business director;
3. Any other business corporation, for a partner who is authorized to conduct the business;
4. In the case of the liquidation of a business corporation, a mutual insurance association, a registered cooperative society, a guild, or other legal person, for one of the liquidators.

PAR. 2. This provision is correspondingly applicable for the Empire, federal States, communes, unions of communes, as well as other corporations, foundations, and institutions created by public law.

ARTICLE 905.

PARAGRAPH 1. If the accident has been brought about negligently through failure to observe that care, to which the undertaker and persons of equal status (art. 899) because of their office, occupation,

or industry are especially obligated, then the general meeting of the accident association may refrain from making a claim for the accident association.

PAR. 2. The constitution may transfer this right to the directorate.

ARTICLE 906.

PARAGRAPH 1. If the directorate desires to make a claim for reimbursement it shall communicate in writing its decision to the person liable to make reimbursement. The latter may then appeal within one month to the general meeting of the accident association.

PAR. 2. If the person to make reimbursement appeals within this time to the general meeting of the accident association, suit may be instituted only after the decision of the latter, and in other cases only after the expiration of one month with a notification.

ARTICLE 907.

PARAGRAPH 1. Such claims lapse in 18 months after the day on which the penal decision has become effective. In those cases in which no penal decision is required they lapse within one year after the legal and effective determination of the obligation to compensation on the part of the accident association, but at the latest within 5 years after the accident. If the general meeting of the accident association is appealed to, such action shall act as a stay to the expiration. A new period of expiration may only then begin, if the general meeting of the accident association has made a decision or if the appeal has been decided otherwise.

PAR. 2. The provisions of article 901, paragraph 1, in regard to the regular courts being bound to follow the decision, are also applicable for these claims.

SECTION TWELVE.—PENAL PROVISIONS.

ARTICLE 908.

Under a proviso that the undertaker was aware of the inaccuracy of the statements or must have known under the circumstances, the directorate of the accident association may impose fines upon employers up to 500 marks [$119]—

1. If on the basis of the law or of the constitution they have transmitted reports for the computation of contributions or premiums or for the classification in risk classes which contained actually incorrect statements;
2. If in the report of the establishment (art. 653) a later date is stated as the time of the opening of the establishment or of the beginning of the insurance obligation than that date on which the establishment was opened or became subject to the insurance.

ARTICLE 909.

The directorate of the accident association may in addition impose fines not to exceed 300 marks [$71.40] on the undertakers if they do not comply in due time with the obligation—

1. To report the establishment and changes in the establishment, as also to post placards in the establishment;
2. To keep and preserve wage lists (wage books);
3. To transmit wage reports and the reports for the computation of premiums;
4. To comply with the provisions of the constitution in regard to the shutting down of an establishment and to a change of the undertaker.

ARTICLE 910.

PARAGRAPH 1. The superior insurance office (decision chamber) shall decide finally upon appeals against the determination of fines by the directorate of the accident associations.

PAR. 2. The decision chamber shall decide, though not finally, in the cases mentioned in articles 870 and 887 as well as of article 891 in connection with these provisions.

ARTICLE 911.

Undertakers or their employees who purposely deduct contributions or premiums, either wholly or partly, from earnings or deliberately bring about the same, shall be punished with fines up to 300 marks [$71.40] or with imprisonment, if a severer penalty has not been incurred according to other legal provisions.

ARTICLE 912.

Whenever on the basis of this law the undertaker is liable to penalties the following persons shall be considered as having the same status:

1. The members of the directorate, if a stock company, mutual insurance association, registered cooperative society, guild, or other legal person is an undertaker;
2. The business manager, if an association with limited liability is an undertaker;
3. All copartners personally liable, provided that they are not excluded from representation, if another form of business corporation is the undertaker;
4. The legal representatives of undertakers not legally competent to transact business, or partially so, as well as liquidators of a business corporation, a mutual insurance association, a registered cooperative society, a guild, or any other legal person.

ARTICLE 913.

PARAGRAPH 1. The undertaker may transfer the duties laid upon him on the basis of this law to business managers; in so far as the matter does not relate to arrangements founded on regulations for the prevention of accidents, he may also transfer the duties to a supervisory staff or other officials of his establishment.

PAR. 2. If such representatives act in violation of those regulations which impose a penalty upon the undertaker, then the penalty shall apply to them. In addition to them the employer may be penalized in the following cases:

1. If the violation has taken place with his knowledge;
2. If in the selection or supervision of his representatives he has not observed the required care in the transaction; in these cases no other penalty than a fine may be imposed upon the undertaker.

PAR. 3. If the fines which have been imposed by the directorate of the accident association can not be collected from the representatives, then the employer is liable in their place. His liability is to be specified in fixing the penalty.

ARTICLE 914.

In the case of insured persons, the fines imposed upon them shall be paid into the sick fund if the person penalized belongs at the time of the violation to a sick fund; otherwise, it shall be paid into the general local sick fund of his place of employment, and where such fund does not exist, then into the rural sick fund. The same shall also apply to fines which administrative authorities impose upon insured persons (art. 897).

PART TWO.

AGRICULTURAL ACCIDENT INSURANCE.

SECTION ONE.—SCOPE OF THE INSURANCE.

ARTICLE 915.

PARAGRAPH 1. Agricultural establishments (art. 161) are subject to the accident insurance.

PAR. 2. The Imperial Insurance Office may specify what ranches of industry are considered as agricultural establishments.

ARTICLE 916.

PARAGRAPH 1. If the agricultural undertaker carries on work on his own land or on the land of others for his own agricultural establishment without transferring this work to another undertaker, then the following shall be considered as parts of the agricultural establishment:

Current repairs to buildings which are used in agricultural operations;

The cultivation of the ground and other building work for the establishment, especially the making or maintenance of roads, dams, canals, and watercourses for this purpose.

PAR. 2. If because of public and lawful obligation, the agricultural undertaker carries on work for the communes for the making or maintenance of buildings, roads, dams, canals, and watercourses, as an undertaker, and these obligations rest upon him as an agriculturalist, then they are to be considered as part of his agricultural establishment.

ARTICLE 917.

PARAGRAPH 1. In the meaning of article 915, paragraph 1, gardening and the care of parks and gardens as well as cemetery establishments shall be considered as agricultural establishments in so far as they are not subject to industrial accident insurance.

PAR. 2. Small home gardens, and ornamental gardens which are not worked regularly, and to a considerable extent with a special labor force and whose products are consumed principally by the household are not considered as agricultural establishments.

ARTICLE 918.

The insurance is applicable also to undertakings which the agricultural undertaker carries on in addition to his farm but in economic dependence thereon (agricultural subsidiary establishments). In this class belong especially those establishments which either wholly or principally are intended for the following purposes:

1. To prepare or work up products of the farm of the undertaker;
2. To supply the needs of his farm;
3. To procure or to work up the products of the earth from his land.

ARTICLE 919.

Article 918 is not applicable to—

1. Mines, salt works, concentrating works, shipyards, metallurgical and metal-working plants, yards for the preparation of building materials as well as to establishments which manufacture or work up as a business either explosives or explosive articles;
2. Establishments which the Imperial Insurance Office has declared to have the status of factories—
   Because of their considerable scope;
   Because of their special equipment with machinery;
   Because of the number of their industrial workmen.

ARTICLE 920.

Establishments or activities in inland navigation and rafting are only included in the insurance of the principal agricultural establishments if they do not extend beyond the scope of local traffic.

ARTICLE 921.

Those activities which because of their nature are subject to the industrial accident insurance in a branch institute or an insurance association shall be insured in that agricultural accident association to which the undertaker having the activities of the same kind belongs: *Provided*, That these other activities are of greater extent than the former.

ARTICLE 922.

Article 542 is applicable to the assignment of agricultural and industrial establishments of the same undertaker to the accident association.

ARTICLE 923.

PARAGRAPH 1. In establishments which according to articles 915 to 922 are subject to the insurance, the following persons shall be insured against accidents (industrial accidents): *Provided*, That they are employed in these establishments:

1. Workmen;
2. Establishment officials whose annual earnings as compensation do not exceed 5,000 marks [$1,190].

PAR. 2. Helpers, journeymen, and apprentices are considered as workmen.

PAR. 3. In distinction from the usual agricultural workmen, that person shall be considered as an artisan who requires special technical skill for his position. This applies to foresters, gardeners, gardeners' helpers, millers, brickmakers, wheelwrights, blacksmiths, carpenters, distillers, engineers, firemen, as well as to helpers and journeymen who have gone through a period of technical training and education. The persons made subject to the agricultural accident insurance according to article 922 shall also be considered as artisans. The constitution shall determine who in addition to these shall be considered as artisans.

PAR. 4. Acts contrary to regulations do not exclude the assumption of a trade accident.

ARTICLE 924.

The insurance shall include household and other service which the insured persons while principally employed in the establishment or in the insured activities (arts. 920 and 921) are called on to perform by the undertaker or his authorized agent.

ARTICLE 925.

The constitution may extend this obligation to the following:

1. Undertakers whose annual earnings do not exced 3,000 marks [$714] or who regularly employ for compensation either no one or at most two persons subject to the insurance;
2. Establishment officials whose annual earnings as compensation exceed 5,000 marks [$1,190].

ARTICLE 926.

The constitution may extend the insurance of undertakers who are principally employed in agriculture to such household activities as are connected with agriculture.

ARTICLE 927.

PARAGRAPH 1. Undertakers may insure themselves against the consequences of trade accidents if they do not have more than 3,000 marks [$714] of annual earnings or if they regularly employ for

compensation either no one or at most two persons subject to the insurance. In this case, article 926 is also applicable.

PAR. 2. The constitution may admit them also to self-insurance if they have more than 3,000 marks [$714] of annual earnings or if they regularly employ for compensation at least three persons subject to the insurance.

ARTICLE 928.

The provisions of articles 925 to 927 in regard to the insurance of undertakers are also applicable to their consorts employed in the establishments.

ARTICLE 929.

The following articles from the industrial accident insurance are correspondingly applicable:

1. Article 552 for the insurance of other employees in the establishment and of strangers in the establishment.
2. Article 553 in regard to the consequences of nonpunctual payment of contributions in the case of voluntary insurance.
3. Article 554 for the insurance of military persons and of officials.

SECTION TWO.—BENEFITS OF THE INSURANCE.

ARTICLE 930.

Articles 555 to 562 from the industrial accident insurance are correspondingly applicable concerning the object of the insurance.

ARTICLE 931.

PARAGRAPH 1. In the computation of the pensions for establishment officials and artisans, articles 563 to 566 and 568 are applicable in regard to the annual earnings.

PAR. 2. In addition articles 932 to 935 and 941 are applicable in this connection.

ARTICLE 932.

If the customary number of working-days in the year is so small that those employed in the establishment regularly perform work elsewhere for compensation, then in the cases mentioned in articles 565 and 566, for the number of days short of 300 working-days the local wage rate which at the time of the accident has been determined upon (arts. 149 to 152) for the place of employment of the injured person shall be added to the amount computed according to articles 565 or 566.

ARTICLE 933.

Articles 564 to 566, 568, and 932 are to be correspondingly applied if the annual earnings are composed of specified amounts for at least weekly periods.

ARTICLE 934.

If the annual earnings of the establishment officials or artisans do not amount to 300 times the local wage rate (art. 932), then the annual earnings shall be assumed to be 300 times the latter.

ARTICLE 935.

In the case of injured young persons the pension, which shall be computed according to the local wage, shall be fixed in that age class in which the injured person belonged at the time of the accident, and is to be correspondingly increased as he reaches the higher age class.

ARTICLE 936.

PARAGRAPH 1. In the case of workmen who are not included in articles 931 to 935, the compensation shall be fixed according to the annual earnings which the agricultural workmen at the time of the accident received on an average through agriculture and other gainful activities in the place of employment.

PAR. 2. The average annual earnings shall be determined by the superior insurance office after a hearing of the local insurance offices; the earnings shall be determined separately for men and women, for injured persons under 16 years of age, for those from 16 to 21 years of age, and for those who are over 21 years of age. Injured persons under 16 years of age (young persons) may, according to article 150, paragraph 2, be still further separated into youths and children. The separation may also be made for agriculture and for forestry.

PAR. 3. Before rendering its opinion, the local insurance office shall give a hearing to representatives of the injured persons engaged principally in agriculture.

ARTICLE 937.

In the case of injured young persons, the compensation shall be fixed in the first place according to the average annual earnings for that age class in which the accident was sustained, and is to be correspondingly increased as the injured persons reach the higher age class.

ARTICLE 938.

The pensions for undertakers, as well as for other persons employed in the establishment and strangers in the establishment (art. 929, No. 1), shall be based on the average annual earnings for agricultural workmen (art. 936) which at the time of the accident had been determined for the seat of the establishment. The constitution may provide otherwise.

ARTICLE 939.

In so far as the annual earnings exceed 1,800 marks [$428.40] the excess shall in every case be computed at only one-third.

ARTICLE 940.

If the accident occurs to a person already permanently partially disabled whose compensation is to be computed according to the average annual earnings (art. 936), then of the latter only that part shall be used as a basis which corresponds to the percentage of the earning capacity before the accident.

ARTICLE 941.

For those persons already permanently partially disabled, the local wage shall be considered as only that fraction of the local wage which corresponds to the degree of the earning capacity before the accident.

ARTICLE 942.

PARAGRAPH 1. The commune must grant sick benefits according to article 182 to an injured workman during the first 13 weeks after the accident. In the place of the sick benefits, the commune may grant hospital treatment and house money according to articles 184 and 186. With the consent of the injured person it may also grant care according to article 185, paragraph 1, and deduct therefor not more than one-fourth of the pecuniary sick benefit. The local wage of the place of employment (par. 2) shall be used as a basic wage.

PAR. 2. The commune upon whom the obligation rests is that of the place of employment (arts. 153 to 156); the seat of the establishment, however, is not to be considered as the place of employment if the injured person was employed in a forestry establishment which extended over the districts of several communes.

ARTICLE 943.

PARAGRAPH 1. The commune is not compelled to grant sick benefits according to article 942 in the following cases:

1. In so far as the injured person has a claim for similar relief on the basis of the sickness insurance or other legal provisions;

2. If he is exempt from insurance on account of benefits which are of value equal to those of the sickness insurance;
3. So long as he remains in a foreign country.

PAR. 2. If the parties obligated in the first place do not provide the sick benefits to the injured person then the commune shall take over the same. The expenditures of the commune on this account must be reimbursed by those upon whom the obligation rests.

PAR. 3. In such cases reimbursement for sick care, and also for treatment in the hospital, shall be three-eighths of the basic wage according to which the pecuniary sick benefit of the person entitled thereto is computed, and for maintenance in the hospital one-half of the basic wage. If no other basic wage is specified, then the local wage of the place of employment shall be used (art. 942, par. 2).

ARTICLE 944.

PARAGRAPH 1. Upon demand of the commune, the sick benefits must be taken over by the rural sick fund, and in the absence of such, by the general local sick fund for the place of residence or of abode.

PAR. 2. The commune must reimburse the expenditures thereof. In such cases article 943, paragraph 3, is applicable if a higher expenditure is not proved.

ARTICLE 945.

PARAGRAPH 1. The accident association may itself take over the course of treatment (art. 942).

PAR. 2. The commune, or subject to articles 1513 and 1516, the parties otherwise obligated (art. 943, par. 1, Nos. 1 and 2) must reimburse the accident association in so far as the injured person could claim benefits from them. In such cases article 943, paragraph 3, is applicable.

ARTICLE 946.

PARAGRAPH 1. If, in the case of injured persons who are not insured against sickness, either on the basis of the imperial insurance or in a miners' sick fund and also have no claim for sick benefits according to article 942, it is to be feared that an accident compensation will have to be granted, then the accident association may, even before the expiration of the first 13 weeks after the accident, inaugurate a course of treatment in order to remove the consequences of the accident or to alleviate the same.

PAR. 2. The association may place the injured person in a medical institution. In such cases article 597, paragraphs 2 to 4, are applicable.

PAR. 3. With his consent the association may grant an injured person a course of treatment according to article 185, paragraph 1.

PAR. 4. The injured person may demand from the accident association proper reimbursement for the earnings which he lost on account of the course of treatment.

ARTICLE 947.

The accident association may determine the consequences of the accident within the first 13 weeks, even without granting the injured person a course of treatment; article 581, paragraph 1, is here correspondingly applicable.

ARTICLE 948.

Articles 582, 583, paragraph 1, and 584 are applicable in the case of granting accident compensation before the expiration of the 13 weeks for the two cases mentioned herewith, and in such cases article 583, paragraph 1, is also applicable for the benefits of the commune (art. 942); these are—

In the case of the transfer of the claim for pecuniary sick benefit;

In the case of the accident association being bound by the attitude taken by the carrier of the sickness insurance.

ARTICLE 949.

PARAGRAPH 1. If the matter does not concern a claim for reimbursement, the local insurance office decides finally in controversies between the commune and the sick fund on account of the taking over of the sick benefits (art. 944).

PAR. 2. Controversies concerning claims for reimbursement arising out of articles 943 to 945 shall be decided by judgment procedure.

ARTICLE 950.

PARAGRAPH 1. Articles 586 to 596 of the industrial accident insurance are applicable as regards compensation for damages in fatal cases.

PAR. 2. However, the annual earnings shall be fixed according to the provisions which are applicable in agricultural accident insurance in the case of physical injury but with the exception of articles 940 and 941. Article 587 is applicable only if the compensation is not computed according to the average annual earnings already determined (art. 936).

ARTICLE 951.

The accident association may grant treatment in a medical institution in place of medical treatment and compensation (art. 930 in connection with art. 558). In such cases articles 597, paragraphs 2 to 5, and 598 are applicable.

ARTICLE 952.

In addition the provisions of the industrial accident insurance are applicable in regard to the following:

House care (*Hauspflege*) (art. 599);

Special relief in case of placing in a medical institution (*Heilanstalt*) (art. 602);

Inauguration of a new course of medical treatment (arts. 603 and 604);

Change of the medical institution (art. 605);

Injury to the injured person due to improper conduct in violation of orders relating to the course of treatment (art. 606);

Placing of the pensioner in a home for invalids (*Invalidenhaus*) or similar institution (art. 607).

ARTICLE 953.

PARAGRAPH 1. With the approval of the higher administrative authority, the communes or unions of communes, may by legal enactment specify that pensions up to two-thirds of their amount shall not be paid in cash, but in kind. This applies only to pensioners who reside in the district: *Provided*, That these persons or those supporting them receive no wages as agricultural workers; but according to local custom are paid either wholly or partly in kind: *And provided*, That a mutual agreement is reached concerning the payment in kind instead of the pensions.

PAR. 2. The value of the commodities shall be determined by the higher administrative authority according to the average prices.

ARTICLE 954.

PARAGRAPH 1. The payments in kind shall be granted by the commune of the place of residence. The claim to the compensation shall be transferred to the commune to the extent of the value of the payments in kind.

PAR. 2. The local insurance office (decision committee) shall decide controversies between the commune and the beneficiary. The superior insurance office decides finally upon appeal.

PAR. 3. If the claim to the pension has been transferred to the commune finally then the accident association shall notify the post office department.

ARTICLE 955.

In addition, the provisions of industrial accident insurance are applicable concerning the following:

The new determination of the pension on account of changes in conditions (arts. 608 to 611);

The maturity of benefits and duration of receipt of pension (arts. 612 and 613);

The right to benefits after the death of the beneficiary (art. 614);

The suspension of compensation (art. 615);

Settlements in the form of capital sums (arts. 616 to 618);

The relinquishment of a claim for reimbursement and legal rights (arts. 619 and 620);

The transferring, assigning, execution of the claims, and deductions from the claims (arts. 621 and 622).

SECTION THREE.—CARRIERS OF THE INSURANCE.

I. ACCIDENT ASSOCIATIONS AND OTHER CARRIERS OF THE INSURANCE.

ARTICLE 956.

PARAGRAPH 1. The accident associations as carriers of the insurance shall include the undertakers of the insured establishments.

PAR. 2. The accident association shall be formed according to territorial districts. They shall include all establishments of the branches of industry in the district for which they have been created.

PAR. 3. Those accident associations which have been created according to article 18 of the law of May 5, 1886 (Reichs-Gesetzblatt, p. 132) concerning accident and sickness insurance of persons employed in agricultural and forestry establishments shall retain their present status subject to the changes permissible according to article 960.

ARTICLE 957.

PARAGRAPH 1. The Empire or a Federal State is a carrier of the insurance if the establishment is conducted for its account, unless the establishments according to article 109 of the law mentioned in article 956 belong to the accident associations created for them.

PAR. 2. Article 625, paragraphs 2 to 5, of the industrial accident insurance is applicable for the subsequent entry into the accident association, rewithdrawal, and re-entrance therein.

ARTICLE 958.

The undertaker of an establishment is the person for whose account the establishment is conducted.

ARTICLE 959.

For establishments which comprise parts, or subsidiary establishments of various branches of industry, article 631, paragraph 1, of the industrial accident insurance applies correspondingly—

For the apportionment of several establishments of the same undertaker to one accident association, article 632 of the industrial accident insurance is applicable;

For the compensation of accidents in establishments of third parties, article 634 of the industrial accident insurance is applicable.

II. CHANGES IN THE STATUS OF THE ACCIDENT ASSOCIATION.

ARTICLE 960.

PARAGRAPH 1. For changes in the status of the accident associations, articles 635 to 646 of the industrial accident insurance are applicable.

PAR. 2. If the Federal Council gives its approval, the constitution for the new accident association shall be decided upon according to articles 20, 21, and 24, paragraph 3, of the law of May 5, 1886 (Reichs-Gesetzblatt, p. 132).

ARTICLE 961.

The same provisions as in the case of the industrial accident insurance (arts. 647 and 648) apply in case of the dissolution of the accident associations.

SECTION FOUR.—ORGANIZATION.

I. MEMBERSHIP AND RIGHT TO VOTE.

ARTICLE 962.

Every undertaker is a member of the accident association if his establishment belongs to the branches of industry covered by it, and the establishment has its seat in the district of the association.

ARTICLE 963.

PARAGRAPH 1. All the pieces of ground of an undertaker, all the agricultural operations of which are served by common farm buildings, shall be considered as a single establishment.

PAR. 2. If the agricultural establishment extends over the districts of several communes, then it shall have its seat in that commune where the common farm buildings or the buildings serving its principal purpose are located. The undertaker may make an agreement with the communes concerning a different seat for the establishment.

ARTICLE 964.

PARAGRAPH 1. Several pieces of ground of a forestry establishment, belonging to one undertaker which are subject to the same immediate business management (forestry district), shall be considered as a single establishment.

PAR. 2. Pieces of ground of forestry establishments of several undertakers shall be considered as separate establishments even if together they are subject to the same business management.

PAR. 3. If a forestry establishment extends over a district of several communes, then its seat shall be considered to be in the locality where the largest part of the forestry area is located. The undertaker may agree with the communes in regard to a different seat for the establishment.

ARTICLE 965.

The membership begins with the opening of the establishment or with the beginning of its insurance obligation; the beginning of the membership of the Empire and the federal States is regulated according to article 957.

ARTICLE 966.

If the members or their legal representatives do not possess civic rights, they shall have no right to vote.

II. REGISTRATION OF THE ESTABLISHMENTS.

ARTICLE 967.

PARAGRAPH 1. Each newly opened establishment must be reported by the communal authority to the directorate of the accident association through the channels of the local insurance office.

PAR. 2. The directorate shall examine whether the establishment belongs to the accident association.

PAR. 3. If the directorate refuses the membership application, it shall communicate the fact to the local insurance office, and the latter may appeal for a decision of the Imperial Insurance Office; upon application of the accident association such step must be taken.

III. CHANGES IN THE UNDERTAKERS—CHANGES IN THE ESTABLISHMENT AND IN ITS MEMBERSHIP IN THE ACCIDENT ASSOCIATION.

ARTICLE 968.

The undertaker must report to the directorate of the accident association each change in the person for whose account the establishment is conducted within the period specified in the constitution. The undertaker remains liable for the contributions up to the end of the fiscal year in which the change was reported without thereby releasing his successor from liability.

ARTICLE 969.

Articles 665 to 673 of the industrial accident insurance are correspondingly applicable in regard to the undertaker's duty of reporting changes in the establishment which are of importance for his membership in the accident association; the same articles apply in regard to the transfer and dissolution of the establishment as well as to the transfer of the burden of accidents and of a part of the reserves.

ARTICLE 970.

PARAGRAPH 1. The obligation to report changes in the establishment which are of importance in connection with the assessment and the procedure in this connection, are to be regulated in the constitution.

PAR. 2. Articles 999 and 1000 are correspondingly applicable in opposing the decision which the accident association has issued on the basis of changes reported or which it has issued of its own accord.

IV. CONSTITUTION.

ARTICLE 971.

The accident associations shall regulate their internal administration and order of business by a constitution which shall be decided upon at the general meeting of the accident association.

ARTICLE 972.

The constitution must specify—

1. The name, the seat, and the district of the accident association;
2. The composition, rights, and duties of the directorate;
3. The form of the declaration of the decisions of the directorate, as well as its signature on behalf of the accident association; the manner of making decisions in the directorate and its representation as to third parties;
4. The creation of the committee of the accident association to decide upon protests (arts. 1000 and 1023);
5. The composition and calling of the general meeting of the accident association and its method of arriving at decisions;
6. The right to vote of members and the examination of their credentials;
7. Representation of the accident association as against the directorate;
8. The rates for loss of earnings and for traveling expenses which are to be granted to the representatives of the insured persons (art. 21);
9. The standard for the assessment of the contributions and providing that the latter are not assessed like taxes, the procedure in valuation and classification.
10. The procedure in case of the opening of new establishments, changes in establishments and changes in the person of the undertaker;

11. The consequences of shutting down the establishment or of a change in the person of the undertaker, especially as to the guaranteeing of his contributions, if he shuts down the establishment;
12. The drawing up, examining, and accepting the annual balance sheet.
13. The administrative action relating to the issuance of the regulations containing provisions for the prevention of accidents and for the supervision of the establishments;
14. The procedure in reporting for membership and separation from membership of the insured undertakers, and other persons insured according to article 925, No. 2, and article 929, No. 1, as well as the amount and ascertainment of the annual earnings of the undertaker;
15. The method of publishing notices;
16. The provisions as to the amendment of the constitution;
17. Who shall be considered as artisans.

ARTICLE 973.

The provisions of the industrial accident insurance are applicable in regard to the following subjects:

Divisions into sections and appointment of district agents (arts. 678, Nos. 2 and 3, and art. 679);

Power of the directorate of the accident association to impose penalties (art. 680);

Drawing up the constitution (arts. 681 to 683).

ARTICLE 974.

PARAGRAPH 1. If the constitution has been approved, the directorate of the accident association must publish the name and seat of the accident association and the districts of the sections in the Reichsanzeiger or, if the district of the accident association does not extend beyond the territory of a federal State, in the official gazette of the highest administrative authority.

PAR. 2. The same rule applies in the case of changes.

V. ADMINISTRATIVE BODIES OF THE ACCIDENT ASSOCIATION.

ARTICLE 975.

PARAGRAPH 1. Articles 685 to 687 and 689 of the industrial accident insurance are applicable as regards the administrative bodies of the accident association.

PAR. 2. The Imperial Insurance Office is, however, not authorized, in the place of the accident association, to issue regulations for the prevention of accidents nor to appoint technical supervisory officials.

ARTICLE 976.

PARAGRAPH 1. The general meeting of the accident association is composed of representatives of the members.

PAR. 2. The general meeting must be called into session at least once a year.

ARTICLE 977.

PARAGRAPH 1. For a specified time the general meeting may transfer the auditing and acceptance of the annual balance sheet and the business of the directorate either wholly or partly to autonomous bodies. In such cases the agreement of the latter and approval of the highest administrative authority is necessary.

PAR. 2. The rights and duties of the administrative bodies of the accident association shall then be transferred to the autonomous bodies.

VI. EMPLOYEES OF THE ASSOCIATIONS.

ARTICLE 978.

The provisions of the industrial accident insurance (arts. 690 to 705) are applicable as regards employees of the accident association who are not State or communal officials and, in the case of the transfer of business, to salaried business managers.

VII. FORMATION OF THE RISK CLASSES.

ARTICLE 979.

Articles 706 to 710 and 712 of the industrial accident insurance shall be applicable as regards the formation of risk classes (arts. 990 to 1004 and 1008). Accident associations whose establishments show but little difference in regard to the risk of accident may decide not to make use of risk classes. Such decision shall require the approval of the Imperial Insurance Office. It may be withdrawn if a list of accidents for the separate branches of the industry discloses important differences.

VIII. DIVISION AND JOINT CARRYING OF THE BURDEN.

ARTICLE 980.

PARAGRAPH 1. The constitution may provide that the sections shall defray the compensation up to three-fourths for accidents which occur in their districts.

PAR. 2. The amounts which thereby become a burden upon the sections shall be assessed upon their members according to the amount of their contributions.

ARTICLE 981.

If the assessments are computed on the basis of the land tax, and thereby the sections are burdened with more than double the amount which is actually expended for them in the form of compensations and costs of administration, then the general meeting of the accident associaton may decide to apportion the excess upon all the sections according to the land tax.

ARTICLE 982.

The provisions of the industrial accident insurance (arts. 714 to 716) are applicable for the joint carrying of the burden.

IX. ADMINISTRATION OF THE ASSETS.

ARTICLE 983.

The Imperial Insurance Office may issue regulations regarding the safe-keeping of securities in so far as the State officials or autonomous bodies do not conduct the business.

ARTICLE 984.

The provisions of the industrial accident insurance (arts. 718 to 721) are applicable in regard to the following:

The investment of the assets;

The reports on the business and accounting operations.

SECTION FIVE.—SUPERVISION.

ARTICLE 985.

PARAGRAPH 1. Articles 722 and 723 of the industrial accident insurance are applicable with regard to the supervision of the accident associations.

PAR. 2. This supervision not extend to the service conditions of State authorities or autonomous bodies which administer accident association.

ARTICLE 986.

For accident associations subject to the supervision of the State insurance office, the latter takes the place of the Imperial Insurance Office in regard to the following matters:

Controversies in regard to the assignment of several establishments to one accident association, according to articles 922 and 959 in connection with article 632;

Controversies between the accident association and the Empire or a federal State in regard to the distribution of the assets in the cases mentioned in article 957 in connection with article 625, paragraph 5;
Changes in the status of the accident associations (arts. 960 and 961);
Membership of the establishment in the accident association and changes in the membership (arts. 967 and 969 in connection with art. 673, pars. 1 and 3);
Approval and drawing up of the constitution (art. 973);
Taking over the business of the accident association (art. 975);
Service regulations for the employees of the accident association as well as controversies regarding service conditions (art. 978);
Risk tariffs (art. 979);
Joint carrying of the cost of compensation (art. 982);
Administration of the assets of the accident association in the cases mentioned in articles 983 and 984 in combination with articles 718, 719, paragraph 1, and 720;
Collecting the contributions (arts. 1011 in connection with art. 736, pars. 2 and 3) as well as the accumulation of the reserve (art. 1013);
Covering the claims of the post office department (art. 1028 in connection with arts. 781 and 782);
Additional institutions of the accident association (art. 1029);
Accident prevention and supervision in the cases mentioned in articles 1030 in connection with articles 848 to 889 and 890, paragraph 1, but excluding the cases mentioned in article 883;
Reporting of the administrative authorities (art. 1033 in connection with art. 893).

ARTICLE 987.

PARAGRAPH 1. If the matter concerns the cases mentioned below, then the Imperial Insurance Office shall decide, if an accident association which is subordinated to another State insurance office or to the Imperial Insurance Office, is affected. The State insurance office shall then transmit the documents to the Imperial Insurance Office. These cases are the following:

Controversies in regard to the assignment of several establishments to one accident association according to articles 922 and 959 in connection with article 632;
Changes in the status of the accident association in the cases mentioned in article 960;
Membership of the establishment in the accident association and changes in the membership (arts. 967 and 969 in connection with art. 673, pars. 1 and 3);
Joint carrying of the cost of compensation (art. 982).

PAR. 2. If the matter concerns any additional common institutions of several accident associations (art. 1029), then the Imperial Insurance Office shall remain competent for these additional institutions if all of the accident associations participating are not subordinated to the same State insurance office.

SECTION SIX.—PAYMENT OF THE COMPENSATION—RAISING OF THE FUNDS.

I. PAYMENTS THROUGH THE POST OFFICE DEPARTMENT.

ARTICLE 988.

The provisions of the industrial accident insurance (arts. 726 to 729) are applicable in regard to the payments through the Post Office Department.

II. RAISING OF THE FUNDS.

1. General provisions.

ARTICLE 989.

The accident associations must raise the funds to cover their expenditures by means of membership contributions which shall cover the expenditures of the preceding fiscal year.

2. Standard of the labor need and of the risk classes.

ARTICLE 990.

The contributions shall be assessed according to the following:

The estimated average need for human labor (labor need) and its value in accordance with this law.

The earnings of the establishment officials and artisans as well as the annual earnings of undertakers in so far as the services of such insured persons are not already included in the estimate.

The extent of the risk of accident (risk classes).

ARTICLE 991.

PARAGRAPH 1. For each undertaker the annual average number of working days shall be estimated which are required to operate his establishment; in this connection, the number of workmen in the establishment and the duration of their employment shall be considered.

PAR. 2. The constitution may provide that household and other service shall be reckoned separately in this connection.

ARTICLE 992.

PARAGRAPH 1. In making the estimates, the list of undertakers, which was drawn up on the creation of the accident association (art. 34 of the law of May 5, 1886, Reichs-Gesetzblatt, p. 132) or drawn up at a later time, is to be used as a basis.

PAR. 2. Changes in the establishment are to be considered.

ARTICLE 993.

PARAGRAPH 1. Permanently employed workmen are to be reckoned as having 300 working days, while female employees are to be computed on the basis of the proportion of their earnings to the average annual earnings of males.

PAR. 2. The services of establishment officials, artisans, and undertakers and their relatives not insured, are not to be included in the estimate.

PAR. 3. The constitution may make other provisions.

ARTICLE 994.

In the case of establishments in which at the most five insured persons are employed regularly on full time, the constitution may specify uniform contributions according to a standard which it shall determine.

ARTICLE 995.

The administrative bodies of the accident association shall arrange for the estimates and shall classify the establishments in risk classes. The constitution must specify the details in this connection.

ARTICLE 996.

PARAGRAPH 1. The communal authority may compel the undertakers to give information concerning the conditions which are decisive for the estimates of the labor need by the imposition of fines up to 100 marks [$23.80].

PAR. 2. If the employer does not supply the information in due time or completely, then the communal authority shall correct the list according to their own knowledge.

ARTICLE 997.

Within two weeks the undertakers must furnish to the administrative bodies of the accident association upon demand such further information concerning conditions in their establishment and of their workmen as is required for the estimate and classification.

ARTICLE 998.

PARAGRAPH 1. The accident association shall communicate to the communal authorities lists containing the following:

The establishments belonging to it in the commune;

The important principles and the result of the estimate and classification.

PAR. 2. The communal authority must hold these lists open for inspection of persons affected for two weeks, and shall make known the beginning of the period in the manner customary in the locality.

ARTICLE 999.

Within one month after the inspection period the undertakers may make protest to the administrative bodies of the accident association which have made the estimate or classification on the following points:

Because their establishment has been included in the list or has not been included;

Because the labor need has been estimated or the establishment has been classified, or against the manner thereof.

ARTICLE 1000.

PARAGRAPH 1. The administrative bodies of the accident association shall communicate the decision in writing to the undertaker in regard to his protest.

PAR. 2. The undertaker may further protest to the committee of the accident association (art. 972, number 4) and may make an appeal against the decision of the latter to the superior insurance office.

ARTICLE 1001.

In making the first estimate and classification, the members of the committee of the accident association may not participate.

ARTICLE 1002.

Within the period in which the risk tariff is to be verified the classification and estimate are also to be verified (art. 979 in connection with art. 708).

ARTICLE 1003.

Even before the regular re-examination the accident association may again estimate the labor need of an establishment or reclassify the establishment if it develops that the reports of the undertaker were incorrect.

ARTICLE 1004.

For the new estimates and new classifications, articles 990 to 1001 are correspondingly applicable.

3. Standard of the tax rate.

ARTICLE 1005.

PARAGRAPH 1. If the State legislation does not exclude the relatives of the undertaker from the insurance and the standard of the labor need and the risk classes is unsuitable, then the constitution may provide that the contributions of the members of the accident association may be collected through supplementary charges to the direct State or communal taxes.

PAR. 2. For the adoption of such a provision a majority of at least two-thirds in the general meeting of the accident association is required. The constitution must in such a case also specify the man-

ner in which those members are to be charged for the cost of the accident association who do not have to pay the taxes used as a basis, either for their whole establishment or a part thereof.

ARTICLE 1006.

The constitution may specify the uniform minimum contributions which shall not be greater than 1 mark [23.8 cents] annually, or, if the undertakers themselves are insured, or are included in the insurance (arts. 925 to 928), not more than 2 marks [47.6 cents] annually.

ARTICLE 1007.

PARAGRAPH 1. Special supplementary charges shall be collected together with the contributions on account of establishment officials and artisans. The constitution shall specify the details in this connection. It must also regulate notification of employment and threaten violations with penalties.

PAR. 2. The same applies in the case of undertakers if, for the computation of their pensions, an amount higher than the average annual earnings of agricultural workmen is used as a basis.

ARTICLE 1008.

PARAGRAPH 1. Contributions are to be graded according to the accident risk in the case of establishments mentioned in article 917, agricultural subsidiary establishments and other establishments which, according to their nature, should be subject to the industrial accident insurance and, in addition, the activities of the kind mentioned in article 921.

PAR. 2. The constitution shall regulate the prerequisites in this connection as well as the amount of these contributions and the procedure.

ARTICLE 1009.

PARAGRAPH 1. If the constitution specifies a land tax as the standard, then the constitution may impose the payment of the supplementary charges upon those persons who by law are subject to the land tax for the parcels of ground of establishments belonging to the association or would be subject to it if the parcels of ground had not been exempt from the tax.

PAR. 2. If, accordingly, a person other than the undertaker pays the contribution, then the latter must refund the payment.

PAR. 3. In controversies concerning such repayments the local insurance office shall decide in whose district the establishment subject to the insurance has its seat. Upon appeal the superior insurance office decides finally.

4. Other standards.

ARTICLE 1010.

PARAGRAPH 1. If the prerequisites mentioned in article 1005, paragraph 1, are present the constitution may provide for another suitable standard for the collection of the contributions, such, for instance, as the following:

The kind of cultivation;

Area in connection with the land tax;

Net return which the ground as such, together with the buildings and outfit belonging thereto and serving the same purpose according to its previous economic use under the customary system of farming, may be made to yield continuously on an average;

The productive value which is obtained by multiplying the above return by 25.

PAR. 2. Articles 996 to 1009 are here correspondingly applicable. The constitution shall specify the details.

5. General provisions.

ARTICLE 1011.

The provisions of the industrial accident insurance are applicable as to the following:

As to the purpose for which contributions may be collected and the funds may be applied (art. 736);

As to advances upon contributions as well as to advance payment of contributions (arts. 737 to 739).

ARTICLE 1012.

PARAGRAPH 1. Undertakers of small establishments with slight accident risk, which employ for compensation persons subject to the insurance only exceptionally, may be either wholly or partly exempt from contributions by the constitution which shall at the same time specify the procedure for the ascertaining of such undertakers.

PAR. 2. With the approval of the highest administrative authority, the general meeting of the accident association may also enact the above.

PAR. 3. In controversies between the accident association and the undertaker in regard to exemption from the insurance, the superior insurance office shall decide finally.

ARTICLE 1013.

PARAGRAPH 1. The accident associations must accumulate a reserve.

PAR. 2. Until the reserve equals twice the amount of the annual expenditures each year, 2 per cent shall be added to the current assessment. The constitution may provide for a higher amount.

PAR. 3. Articles 745 to 747 of the industrial accident insurance apply correspondingly as regards the reserve.

III. PROCEDURE IN ASSESSMENTS AND COLLECTIONS.

ARTICLE 1014.

Article 749, paragraph 1, of the industrial accident insurance applies correspondingly to the assessment of the expenditures upon members.

ARTICLE 1015.

When the assessment of the contributions is based on the tax, the tax for that period shall be used as a basis, for which the contributions are assessed.

ARTICLE 1016.

PARAGRAPH 1. When the assessment of the contribution is made according to the labor need and risk classes, each member who has in the preceding year employed establishment officials or artisans, must transmit a report to the directorate within six weeks after the expiration of the fiscal year, stating the amount actually received by each of them during this time or how much is to be included on his account.

PAR. 2. The constitution may permit a summary wage list as described in article 750, paragraph 3.

PAR. 3. The directorates of the accident association or of the sections shall themselves draw up or complete the wage list for members who do not transmit the same in due time or completely.

ARTICLE 1017.

PARAGRAPH 1. In the computation of the contributions, the following shall be used:

For an establishment official and artisan, that compensation which he is actually receiving in the establishment or which is to be reckoned for him;

For one working day of a workman, the three hundredth part of the average annual earnings as determined for adult males over 21 years of age at the seat of the establishment.

For the undertaker, the same annual earnings if the constitution does not provide otherwise.

PAR. 2. In so far as the average annual earnings exceed 1,800 marks [$428.40], the excess shall be computed at only one-third.

ARTICLE 1018.

If in making the estimates the services of establishment officials and artisans are included, according to the constitution (art. 993, par. 3), then only that amount of the earnings of these insured persons shall be included which is in excess of the average annual earnings of the workman.

ARTICLE 1019.

In the cases mentioned in articles 994 and 1006 with consideration of the uniform contributions, the directorate of the accident association shall compute the contributions which are apportioned to each undertaker for the purpose of covering the total annual expenditure, and shall draw up an assessment roll.

ARTICLE 1020.

PARAGRAPH 1. Extracts from the assessment roll are to be transmitted to each communal authority for the members belonging to its district with the request to collect the contributions after deduction of the collected advances and to send the whole sum within four weeks to the directorate of the accident association.

PAR. 2. The accident association shall on this account pay a compensation, the amount of which shall be determined by the highest administrative authority.

ARTICLE 1021.

PARAGRAPH 1. The extract from the assessment roll must contain statements which will permit the person obligated to make the payments to verify the computation of the contribution.

PAR. 2. The communal authority shall make the extract available to the parties affected for inspection for a period of two weeks, and shall make known the beginning of this period in the manner customary in the locality. Instead of leaving the extract open for inspection, it may be transmitted to the parties affected.

PAR. 3. If the constitution provides that voluntary insurance shall be discontinued if contributions have not been paid in due time, and if it provides that a new application for membership shall be without effect until arrears of contributions have been paid (art. 929, number 2), then attention shall be called thereto either in the extract or in the communication.

ARTICLE 1022.

Articles 755 and 756 of the industrial accident insurance are applicable in regard to a new determination of the contribution after the extract from the assessment roll has been communicated. A new determination is also permissible if on account of incorrect statements of the undertaker, the labor need at a later time has had to be newly estimated (art. 1003).

ARTICLE 1023.

PARAGRAPH 1. Within two weeks after the expiration of the period or after communication has been made (art. 1021, par. 2) the undertaker may make protest to the directorate of the accident association against the computation of the contribution; but he remains obligated to make a provisional payment. In such cases article 757, paragraph 2, shall be applicable.

PAR. 2. The classification and the estimate may, however, not be contested. Further procedure shall be regulated by article 1000. In such cases article 759 shall be correspondingly applicable in regard to the appeal.

ARTICLE 1024.

If after the protest, appeal, or complaint, the contribution is reduced, then article 760 is applicable concerning the covering of difference and the balancing of the excess payment.

ARTICLE 1025.

If it later develops that a contribution paid without protest was either wholly or partly collected without right, then articles 1023 and 1024 shall be correspondingly applicable.

ARTICLE 1026.

If the commune can not prove that the contribution was not actually collected or that compulsory collection was without result, then it shall be liable for the contributions and must forward them at the same time.

ARTICLE 1027.

Article 762 is correspondingly applicable in regard to the raising of contributions which can not be collected. Such contributions are to be reimbursed to the commune which has already forwarded them.

IV. TRANSFERRING AMOUNTS TO THE POST OFFICE DEPARTMENTS.

ARTICLE 1028.

The provisions of the industrial accident insurance are applicable as regards the transmission of the amounts to the Post Office Department (arts. 777 to 782).

SECTION SEVEN.—ADDITIONAL INSTITUTIONS.

ARTICLE 1029.

The provisions of the industrial accident insurance (arts. 843 to 847) are applicable as regards additional institutions of the accident association.

SECTION EIGHT.—ACCIDENT PREVENTION—SUPERVISION.

ARTICLE 1030.

PARAGRAPH 1. Articles 848 to 857, 859 to 889, 890, paragraph 1, and 891, paragraph 2, of the industrial accident insurance are correspondingly applicable as regards prevention of accidents and supervision.

PAR. 2. The representatives of the insured persons shall be elected by the insurance representatives of those local insurance offices whose district is covered by the accident association or the section. However, only such insurance representatives of the local insurance offices are eligible as have been selected as representatives of the insured persons and who belong within the sphere of the agricultural insurance.

ARTICLE 1031.

PARAGRAPH 1. If State authorities or autonomous bodies administer the accident associations, they shall summon for discussion and for decision as to regulations for the prevention of accidents a like number of employers and representatives of the insured persons.

PAR. 2. The representatives of the employers shall be selected by lot, drawn by the chairman from the number of the employers' associates engaged in agriculture who are attached to the superior insurance offices of the district of the accident association, and the selection shall be made in a session of the autonomous bodies or of the authority.

PAR. 3. For these representatives articles 861 and 863 shall be correspondingly applicable; for them and their substitutes, the provisions of articles 16 to 21 and 24 shall also be applicable as far as concerns representatives of the employers.

ARTICLE 1032.

Undertakers are required to permit the members of the administrative bodies of the accident association who have been designated for this purpose by their accident association to enter their places of work during working hours. Article 879 is here correspondingly applicable.

SECTION NINE.—ESTABLISHMENTS OF THE EMPIRE AND OF THE STATES.

ARTICLE 1033.

PARAGRAPH 1. If the Empire or a federal State is a carrier of the insurance, then articles 892, 893, and 895 to 897 of the industrial accident insurance shall be applicable.

PAR. 2. In this case, the following provisions of the agricultural accident insurance shall not apply:

The provisions in regard to changes in the status of the accident associations (arts. 960 and 961);

The provisions concerning the constitution contained in articles 962 to 983 and 984 in connection with articles 718 to 720;

The provisions in regard to supervision (arts. 985 to 987);

The provisions relating to raising funds as well as concerning the procedure of assessment and collection (arts. 989 to 1027);

Article 1028 in connection with articles 781 and 782 of the provisions in regard to transmitting amounts to the Post Office Department;

The provisions in regard to additional institutions (art. 1029);

Article 1030 in connection with articles 848 to 887, 889, 890, paragraph 1, and 891, paragraph 2, as well as articles 1031 and 1032 of the provisions in regard to accident prevention and inspection;

Articles 1043, 1044, and 1045 in connection with articles 910, 912, and 913 of the penal provisions.

PAR. 3. In place of the constitution, the administrative regulations shall specify who shall be considered as artisans.

SECTION TEN.—REGULATION BY STATE LEGISLATION.

ARTICLE 1034.

The State legislation may specify how far and under what conditions the two steps named below may be taken. Additional provisions of the constitution as regards the first case below are thereby not excluded. These two cases are—

1. How far and under what conditions undertakers, including consorts, may be insured;
2. How far and under what conditions other relatives of the undertaker shall be exempt from insurance.

ARTICLE 1035.

PARAGRAPH 1. The State legislation may also either wholly or partly exempt undertakers from the payment of contributions on account of the slight risk of accidents are the small scope of the establishment, and shall specify the procedure for the ascertaining of such undertakers.

PAR. 2. In controversies between the accident association and the undertaker in regard to such exemption, the superior insurance office shall decide finally.

ARTICLE 1036.

The State legislation may also prescribe higher reserves (art. 1013).

ARTICLE 1037.

The State legislation may regulate the following five subjects at variance with the provisions of this law specified below. The following are these five subjects:

The delimitation of the accident associations;
The constitution and administration of associations;
The procedure in case of change in the establishment;
The standard for the assessment of contributions;
The procedure in assessment and collection.

The provisions which may be departed from are the following:

Articles 5 to 7 in regard to administrative bodies;
Articles 12, 13, 14, paragraph 2, sentence 2, articles 17 to 21, 23, and 24 in regard to honorary offices;
Articles 28, paragraphs 1 and 2, and article 29, paragraphs 1 and 2, in regard to assets;
Article 967 in regard to reporting of establishments;
Articles 968, 969, in connection with articles 665, 666, 667, paragraph 2, and articles 669 to 672 as well as article 970 in regard to change of the undertaker, to reporting changes in the establishment and in regard to additional procedure;
Articles 971 to 974 in regard to the constitution.
Article 975, paragraph 1, in connection with articles 685, 686, Nos. 3 and 4, and 687 to 689, and also article 976, paragraph 1, and article 977, paragraph 1, in regard to the administrative bodies of the accident association;
Article 978 in regard to employees of the accident association;
Article 979 in regard to the formation of risk classes.
Articles 980 to 982 in regard to dividing and the joint carrying of the cost;
Articles 990 to 1010 in regard to raising the funds;
Articles 1014 to 1027 in regard to the procedure in assessment and collection.

In addition the State legislation may change various provisions of this law and enact the following:

Designate the administrative bodies which shall administer the accident association and take cognizance of the rights and duties which this law imposes upon directorates;
Transfer the investigation of the circumstances of the accident to the local insurance office.

ARTICLE 1038.

If the State legislation contains provisions based upon the authorization of article 1037, it shall also specify the following:

1. The representation of the accident association in the investigation of accidents (art. 1562).
2. The administrative body with which the claim for compensation shall be filed (arts. 1546, 1548, 1584, and 1585) and which shall determine the compensation and issue the decision or final decision thereon (arts. 1568, 1569, 1583, and 1606).
3. The administration of the assets (art. 25, par. 2, arts. 26, 27, 983 and 984 in connection with arts. 718 to 720).
4. The persons, excepting the technical supervisory officials and the special experts (art. 1030 in connection with arts. 875, 880, 881), who are subject to the penal provisions concerning the violation of trade secrets (arts. 142 to 144).

ARTICLE 1039.

If by any State legislation use is made of the right to delimit accident associations, then in the case of changes in the status of the accident associations the highest administrative authority shall take the place of the Federal Council if the establishments affected all have their seat in the federal State.

ARTICLE 1040.

PARAGRAPH 1. If an accident association created under the State law is to be dissolved on account of insolvency, and its establishments apportioned to other accident associations whose establishments all have their seats in the federal State, then the highest administrative authority of that State shall be competent as regards dissolution and apportionment.

PAR. 2. Upon dissolution of the accident association its rights and duties are assumed by the federal State.

ARTICLE 1041.

PARAGRAPH 1. If a federal State has joined its territory, either wholly or partly, to the accident association of a second State with the consent thereof, and the latter has made use of the right granted in article 1037, then for this accident association the provisions of the State laws of the designated second State shall be applicable.

PAR. 2. If the State included has also made use of its rights under article 1037, then the provisions of the federal State in which the accident association has its seat shall be applicable. The two State governments shall agree on the seat of the association.

PAR. 3. If the Federal Council dissolves an accident association of this kind as being insolvent, then the rights and duties of the association shall be transferred to the Federal States affected according to the proportion of the contributions which were paid in the last fiscal year.

PAR. 4. If the federal States affected can not agree on these matters, the Federal Council shall decide the matter upon appeal.

SECTION ELEVEN.—LIABILITY OF UNDERTAKERS AND THEIR REPRESENTATIVES.

ARTICLE 1042.

PARAGRAPH 1. The provisions of the industrial accident insurance (arts. 898 to 907) are applicable as regards the liability of undertakers and their representatives.

PAR. 2. Claims for reimbursement for damages suffered through accident, which the insured person has according to law for the first 13 weeks after the accident, are retained if the injured person does not have a claim to the benefits of sickness insurance from a sick fund, a miners' sick fund, or a substitute fund, or is exempt from insurance because of being entitled to benefits of equal value.

SECTION TWELVE.—PENAL PROVISIONS.

ARTICLE 1043.

PARAGRAPH 1. The directorate of the accident association may impose upon undertakers fines up to 500 marks [$119] if the four classes of reports specified below contain statements of facts which the undertakers knew to be incorrect or under the circumstances must have been aware of the fact. These are the following:

1. Lists of salaries or wages which must be handed in according to article 1016 for the purpose of the assessment of the contribution;
2. Explanations which must be transmitted to the competent officials of the accident association for the purpose of apportioning the establishment to the risk classes;

3. Reports which they have furnished according to article 996 for estimating the labor need or according to article 997 in regard to conditions of their establishment and their labor force;
4. Reports or notices which they have furnished according to article 968 concerning the change of the undertaker or according to articles 969 and 970 concerning changes in the establishment.

PAR. 2. Paragraph 1 is correspondingly applicable as regards reports, explanations, and information which undertakers must give for the apportionment of the contributions under the standard specified in article 1010.

ARTICLE 1044.

The directorate of an accident association may in addition impose fines up to 300 marks [$71.40] upon undertakers if they do not in due time comply with the following obligations:

1. Transmit the statements designated in article 1043, paragraph 1, numbers 1, 3, and 4 and paragraph 2;
2. Comply with the provisions of the constitution in regard to the shutting down of establishments and changes of undertakers.

ARTICLE 1045.

The following provisions of the industrial accident insurance are correspondingly applicable:

Article 910 concerning the protest against the determination of fines by the directorates of the accident association;
Article 911 concerning the deduction of the contributions from the earnings;
Article 912 in regard to the punishment of persons of equal status with undertakers;
Article 913 concerning penalties in the case of transfer of the obligations of undertakers;
Article 914 concerning the funds to which the fines accrue.

PART THREE.

NAVIGATION ACCIDENT ASSOCIATION.

SECTION ONE.—SCOPE OF THE INSURANCE.

ARTICLE 1046.

The following persons are insured against accident:

1. If they are employed upon seagoing vessels as masters, seamen, engineers, stewards, or belonging to the ship's crew in another capacity (seamen); masters are included, however, only if they are employed for a compensation;
2. If they are employed upon German seagoing vessels in inland harbors or upon inland canals or streams without belonging to the ship's crew, provided they are not otherwise insured against accident upon the basis of the imperial insurance;
3. If they are employed in inland establishments conducting floating docks and similar operations as well as in German establishments for pilot service, for the rescue or salvage of men or commodities in case of shipwreck, for the watching, lighting, or maintenance of waters for the service of marine traffic.

ARTICLE 1047.

A sea voyage (art. 163) includes the following:

1. A voyage upon the sea outside of the limits specified in article 1 of the administrative provisions of November 10, 1899,

in connection with article 25 of the flag law of June 22, 1899;

2. Voyages upon bays, inclosed bays (*Haffen*), and shoals of the sea.

ARTICLE 1048.

Voyages upon other waters which are connected with the sea are not considered as sea voyages, even if made by seagoing vessels.

ARTICLE 1049.

The crews of vessels which are used for fishing of the kind described in article 1048, within the limits determined by the Federal Council, are also insured against accident.

ARTICLE 1050.

If it is doubtful whether establishments are subject to the navigation accident insurance, then the Imperial Insurance Office shall decide thereon after a hearing of the directorate of the accident association.

ARTICLE 1051.

The navigation accident insurance is not applicable to establishments engaged in marine navigation and other establishments included in articles 1046 and 1049 which, because they are important parts of another establishment, are subject to the industrial accident insurance (art. 540, No. 2).

ARTICLE 1052.

PARAGRAPH 1. The insurance applies to accidents during operations, inclusive of accidents which occur during these operations and which are caused by natural events (industrial accidents).

PAR. 2. Acts contrary to regulations do not exclude the assumption of a trade accident.

ARTICLE 1053.

The insurance is in force for the time from the beginning to the end of the service relation, including transportation from land to vessel and from vessel to land.

ARTICLE 1054.

The insurance also covers the following:

1. Accidents during operations to persons insured according to articles 1046 and 1049 sustained upon a vessel subject to the navigation accident insurance upon which they are employed, but to whose crew they do not belong.
2. Accidents to German seamen during free return transportation, or transportation upon German seagoing vessels which is granted to them in accordance with the Commercial Code or Navigation Code (Reichsgesetzblatt, 1902, p. 175), or according to the law relating to the obligation of vessels in the merchant marine as to returning seamen to home ports (Reichsgesetzblatt, 1902, p. 212).

ARTICLE 1055.

In the case of change of flag, the service relation is regarded as ended on that date on which the insured person may ask for his discharge. The change of flag is to be communicated to the insured persons. The communication must be entered in the ship's log by the captain, and the insured persons must attest the entry.

ARTICLE 1056.

Excluded from insurance are accidents sustained by the insured person in the following cases:

1. While he is not on board contrary to orders;
2. While he is on land on leave for his private affairs.

ARTICLE 1057.

The insurance also includes the following:

1. Household and other service to which the insured persons who are principally engaged in the establishment have been assigned by the undertaker or by his representatives.
2. Service rendered by insured persons in connection with the rescue or salvage of men or goods.

ARTICLE 1058.

The undertakers of industrial establishments are also insured in the following cases:

1. In sea navigation, if the seagoing vessel has not more than 50 cubic meters [65.40 cubic yards] total capacity, and has neither the appurtenances of larger seagoing vessels nor is arranged to be driven by steam or other machine power.
2. Fishing on the high seas with vessels which the Federal Council has not already, in accordance with article 1, paragraph 5, of the law of July 13, 1887 (Reichsgesetzblatt, p. 329) placed under the accident association as being steamers engaged in deep-sea fishing or as being herring luggers.
3. Fishing of the kind designated in article 1049.

PAR. 2. The insurance obligation of the undertaker exists only if he belongs to the crew of the vessel, and in the establishment there is regularly employed for compensation either no one or at the most two persons subject to the insurance.

ARTICLE 1059.

The constitution may also extend the insurance obligation to shipowners who belong to the crew of the vessel, and when in the establishment there is regularly employed for compensation either no one or at the most two persons subject to the insurance.

ARTICLE 1060.

The proprietor of a seagoing vessel is the shipowner (*Reeder*), or if a shipowning firm (*Reederei*) exists, then the firm itself (art. 489 of the Commercial Code).

ARTICLE 1061.

Such undertakers of insured establishments which are not already insured according to these provisions, and pilots who carry on their business on their own account, can insure themselves against the consequences of industrial accidents.

ARTICLE 1062.

The provisions of articles 1058, 1059, and 1061 in regard to the insurance of the undertaker are also applicable for consorts employed in the establishment.

ARTICLE 1063.

The insurance covers the annual earnings up to 5,000 marks [$1,190], inclusive. The constitution may extend the insurance beyond this sum.

ARTICLE 1064.

The following articles of the industrial accident insurance are correspondingly applicable:

1. Article 552 for the insurance of other employees in the establishment and strangers in the establishment.
2. Article 553 for the consequences of failure to make prompt payment of contributions in the case of voluntary insurance.
3. Article 554 for the insurance of persons in military service and of officials.

SECTION TWO.—BENEFITS OF THE INSURANCE.

ARTICLE 1065.

PARAGRAPH 1. Articles 555 to 562 of the industrial accident insurance are correspondingly applicable as regards the benefits of the insurance; contraventions of article 93, paragraphs 2 and 3, and of articles 95 to 97 of the Navigation Code are not considered as misdemeanors in the meaning of article 557, paragraph 1.

PAR. 2. In so far as there is a legal obligation of the shipowner to provide sick relief, then the obligation to provide compensation by the accident association shall begin when the obligation of the shipowner ends.

ARTICLE 1066.

In computing the pension of insured persons who belong to the accident association (art. 1118) the annual earnings are to be determined according to articles 1067 to 1079, 1081 and 1082.

ARTICLE 1067.

With the exception of persons employed in establishments engaged in towing and lighterage, the average rate of monthly cash wages (*Heuer*) at the time of the accident granted on the mustering in or registering, multiplied by 11, shall be considered as the annual earnings of persons who belong to the crew of seagoing vessels; to this amount shall be added two-fifths of the average cash value of the board provided for able-bodied seamen on seagoing vessels.

ARTICLE 1068.

PARAGRAPH 1. The average monthly rate shall be determined by the imperial chancellor after a hearing of the highest administrative authority on a uniform basis for the whole German coast, and it shall be fixed according to the wage rates which able-bodied seamen on German vessels have received during the last three calendar years in which the German naval forces have not been mobilized.

PAR. 2. For those classes of the ship's crew who in addition to the wage or salary have a regular supplementary income, the average money value of such income shall also be included in fixing the average rate above referred to.

ARTICLE 1069.

The average rate shall be established separately for able-bodied seamen, steersmen, engineers, and other ship's officers, and for masters. It may also be graded further according to the type of the vessels or according to classes of the ship's crew.

ARTICLE 1070.

In the case of persons of the ship's crew for whom no special average has been determined, three-fourths of the rate determined for able-bodied seamen shall be used.

ARTICLE 1071.

The determination of the average rates shall be re-examined at least every five years.

ARTICLE 1072.

After the expiration of the seventeenth year of life, the pension is to be increased to the average rate for ordinary seamen, and after the expiration of the nineteenth year of life to the rate for able-bodied seamen: *Provided*, That it had been computed according to a lower rate average.

ARTICLE 1073.

In so far as the annual earnings exceed 1,800 marks [$428.40] the excess shall be computed at only one-third.

ARTICLE 1074.

PARAGRAPH 1. Articles 563 to 566 and 568 of the industrial accident insurance are applicable as concerns the annual earnings of the other persons insured according to article 1046 who belong to the accident association.

PAR. 2. In this connection, articles 1075 to 1078 and 1082 are also applicable.

ARTICLE 1075.

If the customary number of working days of operation in the year is so small that those employed in the establishment regularly perform work elsewhere for compensation in addition, then in the cases specified in articles 565 and 566 the number of working days necessary to make up the 300 shall be added to the amount computed according to article 565 or 566, using the local wages which at the time of the accident have been determined for the place of employment of the insured person (arts. 149 to 152).

ARTICLE 1076.

Articles 1074 and 1075 are correspondingly applicable if the annual earnings are composed of the amounts specified at not less than weekly rates.

ARTICLE 1077.

If the annual earnings as computed according to articles 1074 to 1076 do not equal 300 times the local wage rate (art. 1075), then 300 times the local wage rate shall be considered as the annual earnings.

ARTICLE 1078.

The pension for injured young persons, which shall be computed according to the local wage rate, shall be fixed at first according to the age class in which they were when the accident occurred, and is to be correspondingly increased for them as they go into the higher wage class.

ARTICLE 1079.

The constitution must contain provisions in regard to obtaining the annual earnings of undertakers and of pilots as well as other persons employed in the establishment, and strangers in the establishment who belong to the accident association (art. 1064, No. 1). In so far as the annual earnings exceed 1,800 marks ($428.40), the excess shall here also be computed at only one-third.

ARTICLE 1080.

In computing the pension of insured persons who belong to a branch institute (art. 1120) the annual earnings shall be taken as equal to 300 times the local wage rate which was established at the time of the accident for the seat of the establishment. In the case of young persons the pensions shall be increased as specified in article 1078.

ARTICLE 1081.

If the accident occurs to a person already permanently partially disabled whose pension is based on the average monthly rate as above determined (art. 1068), then only that part shall be used as a basis which corresponds to the degree of earning power previous to the accident.

ARTICLE 1082.

The local wage rate for persons already permanently partially disabled shall be considered as only that part thereof which corresponds to the degree of earning power previous to the accident.

ARTICLE 1083.

If the injured person is insured against sickness on the basis of the imperial insurance or in a miners' sick fund, then articles 573 to 576

and 578 of the industrial accident insurance shall be correspondingly applied for relief during the first 13 weeks after the accident. In such cases contravention of article 93, paragraphs 2 and 3, and articles 95 to 97 of the Navigation Code are not to be considered as misdemeanors in the meaning of article 557, paragraph 1.

ARTICLE 1084.

If the persons insured under articles 1046 and 1049 are not insured on the basis of the imperial insurance or in a miners' sick fund and also have no legal claim against the shipowner for sick relief during the first 13 weeks after the accident, then the undertaker must grant relief during this time. This does not apply in the case of insured persons whose annual earnings exceed 2,500 marks [$595].

ARTICLE 1085.

PARAGRAPH 1. The amount of relief to be provided by the undertaker shall be based on the following:

1. In the case of seamen according to articles 553 and 553a of the Commercial Code and articles 59 to 61 of the Navigation Code.
2. In other cases according to article 577, paragraph 1, and article 578 of the industrial accident insurance.

PAR. 2. Article 576 is correspondingly applicable as regards a claim for reimbursement of the undertaker against the accident association.

PAR. 3. The employer or carrier of the other relief under article 577, paragraphs 2 and 3, shall take the place of the undertaker.

ARTICLE 1086.

PARAGRAPH 1. The accident association can assume either wholly or partly the benefits to be paid by the undertaker.

PAR. 2. In the case of seamen the undertaker must reimburse the expenses of the accident association. In such case reimbursement for the cost of medical treatment (art. 553 of the Commercial Code and art. 59 of the Navigation Code) shall be one-half of the amount which would have to be expended for institutional care at the seat of the competent section.

PAR. 3. In the case of persons other than seamen article 579, paragraph 1, sentences 2 and 3, shall be applicable to the reimbursement.

PAR. 4. This provision shall be correspondingly applicable if in the cases mentioned in article 1085, paragraph 3, in connection with article 577, paragraphs 2 and 3, the employer or carrier of the other relief takes the place of the undertaker.

ARTICLE 1087.

PARAGRAPH 1. In the case of injured persons who belong to a branch institute relief for the first 13 weeks after the accident shall not be based according to articles 1083 to 1086.

PAR. 2. In the case of such injured persons the commune in whose district the establishment has its seat must grant sick benefits according to article 182. In the place of sick benefits it may grant hospital care and house money according to articles 184 and 186; with the consent of the injured person it may also grant care according to article 185, paragraph 1, and deduct up to one-fourth of the pecuniary sick benefits therefor. The local wage rate of the seat of the establishment shall be used as basic wage.

ARTICLE 1088.

PARAGRAPH 1. The commune is not required to provide sick benefits according to article 1087 in the following cases:

1. In so far as the injured person has a claim for similar relief on the basis of the sickness insurance or other legal provisions.

2. If he is exempt from insurance on the basis of benefits which are of equal value with the sickness insurance.
3. As long as he remains in a foreign country.

PAR. 2. If those first obliged to do so do not provide the injured person with the sick benefits, then the commune shall assume such provision. The expenditures for this purpose must be repaid to the commune by those obliged to make such provision.

PAR. 3. In such cases the compensation for the sick care as well as in the case of treatment in a hospital shall be equal to three-eighths of the basic wage according to which the pecuniary sick benefits of the beneficiary are computed, and in the case of maintenance in a hospital one-half of the basic rate. If no other basic wage is specified, then the local wage rate of the seat of the establishment shall be used.

ARTICLE 1089.

PARAGRAPH 1. Upon demand of the commune the general local sick fund, or, in the absence of such, the rural sick fund of the place of residence or abode, shall take upon itself the providing of the sick benefit.

PAR. 2. Expenditures on this account shall be reimbursed by the commune. In such cases if a higher expenditure is not shown, article 1088, paragraph 3, shall be applicable.

ARTICLE 1090.

PARAGRAPH 1. The branch institute may take upon itself the provision of medical treatment (art. 1087).

PAR. 2. The commune, or under the reservation of articles 1513 and 1516 those otherwise obliged to do so (art. 1088, par. 1, Nos. 1 and 2), shall reimburse the branch institute in so far as the injured person had a claim upon them for benefits. In such cases article 1088, paragraph 3, is applicable.

ARTICLE 1091.

PARAGRAPH 1. The relief of the injured person may be transferred by the branch institute to the commune, which is obliged to provide sick benefits for the first 13 weeks, or to the sick fund (art. 1089) until the end of the course of treatment.

PAR. 2. The branch institute must reimburse the commune or the sick fund for the expenditure on this account. In such cases article 1088, paragraph 3, shall be applicable unless a higher expenditure is shown.

ARTICLE 1092.

PARAGRAPH 1. If, in the case of persons who are not insured against sickness on the basis of the imperial insurance or with a miners' sick fund, and also do not have a claim for sick relief according to article 1087, it is to be feared that an accident compensation will have to be provided for, the accident association may inaugurate a course of treatment even before the expiration of the first 13 weeks after the accident in order to remove the consequences of the accident or to alleviate the same.

PAR. 2. The association may place the insured person in a medical institution. In such cases article 597, paragraphs 2 to 4, is applicable.

PAR. 3. The association, with his consent, may grant the injured person care according to article 185, paragraph 1.

PAR. 4. The injured person may demand from the accident association a proper reimbursement for the earnings which he has lost on account of the course of treatment.

ARTICLE 1093.

Even without granting the injured person a course of treatment, the accident association may investigate the consequences of the accident within the first 13 weeks. Article 581, paragraph 1, is here correspondingly applicable.

ARTICLE 1094.

Articles 582 and 583, paragraph 1, and article 584 are applicable in regard to—

The granting of the accident pension before the expiration of the 13 weeks.

The transfer of the claim for pecuniary sick benefit before the expiration of the 13 weeks.

The liability of the accident association for the attitude of the carrier of the sickness insurance before the expiration of the 13 weeks.

In such cases article 583, paragraph 1, is also applicable for the payments of the commune (art. 1087).

ARTICLE 1095.

In fatal cases, the following must in addition be granted:

1. A funeral benefit according to articles 1096 and 1097.
2. A pension to the survivors beginning with the date of death.

ARTICLE 1096.

PARAGRAPH 1. The funeral benefit shall be granted in the following cases:

1. If the shipowner does not have to bear the cost of burial according to article 554 of the Commercial Code or article 64 of the Navigation Code (*Seemannsordnung*);
2. If the deceased was buried on land.

PAR. 2. Article 203 is here correspondingly applicable.

ARTICLE 1097.

PARAGRAPH 1. The funeral benefit shall consist of the following amount:

1. When paid by the accident association,
   a. For seamen, two-thirds of the monthly average rate (arts. 1067 to 1073);
   b. For other persons, the fifteenth part of the annual earnings. This amount shall be computed in the same manner as in the case of bodily injury; however, in such cases, article 1082 does not apply;
2. When paid by the branch institute, 20 times the local wage rate according to article 1080.

PAR. 2. In all cases, however, the funeral benefit shall be at least 50 marks [$11.90].

ARTICLE 1098.

PARAGRAPH 1. The pension to the survivors shall consist of a fraction of the annual earnings (arts. 1067 to 1073, 1097, par. 1, No. 1b, and art. 1080).

PAR. 2. In other cases, articles 588 to 596 of the industrial accident insurance are applicable in this respect; in such cases remaining on board a German ship, shall be considered the same as an abode in Germany.

ARTICLE 1099.

PARAGRAPH 1. If the insured person has gone to sea on a vessel, then his survivors also have a claim to the pension if the vessel has sunk or according to articles 682 and 683 of the Commercial Code is regarded as missing, and during one full year after its sinking or after the last news of the vessel, no trustworthy information concerning the existence of the person missing has been received.

PAR. 2. The local insurance office may demand a solemn assurance from the survivors that they have received no other information regarding the existence of the missing person than that declared.

ARTICLE 1100.

PARAGRAPH 1. In such cases, the pension shall begin on the day of the sinking of the vessel, or if it is missing, one-half a month after the date up to which the latest news of the vessel reaches (art. 53 of the Navigation Code).

PAR. 2. The claim to further receipt of the pension shall cease if it is proved that the person believed to be dead is still alive.

ARTICLE 1101.

PARAGRAPH 1. If on account of a previous accident, the annual earnings (art. 1097, par. 1, No. 1b, and art. 1080) are smaller than the wages received before the earlier accident, then the previous pension is to be added to the annual earnings; in such cases, however, that amount may not be exceeded which, as annual earnings, was used as the basis for the previous pension.

PAR. 2. This shall not apply if the pension was computed according to the monthly average as determined above (art. 1068).

ARTICLE 1102.

PARAGRAPH 1. The accident association may grant treatment in a medical institution in place of sick treatment and pension (art. 1065 in connection with art. 558). In such cases, article 597, paragraphs 2 to 5, and article 598 are applicable.

PAR. 2. With the consent of the injured person, the accident association may grant free medical treatment and maintenance on board a vessel instead of treatment in a medical institution.

ARTICLE 1103.

Article 599 is applicable in regard to home care.

ARTICLE 1104.

PARAGRAPH 1. If the accident association, according to article 1086, assumes the benefits of the undertaker, then in place of the relief designated in articles 1084 and 1085, it may grant care and maintenance in a hospital as well as grant house money according to articles 186 and 577, paragraph 1, in the cases mentioned in article 1085, paragraph 1, No. 2. In this connection, article 1102, paragraph 2, shall be correspondingly applicable.

PAR. 2. In the case of seamen, the undertaker must reimburse that amount for treatment and care which would have to be expended for treatment in a medical institution at the seat of the competent section.

PAR. 3. For persons other than seamen, the reimbursement men-

ARTICLE 1121.

The undertaker shall be considered as that person for whose account the establishment is conducted; in the case of navigation establishments this shall be the shipowner.

ARTICLE 1122.

PARAGRAPH 1. The following provisions of the industrial accident insurance shall be applicable:

Article 630, paragraph 3, concerning the maintenance of status of the accident association;

Article 634 concerning the compensation of accidents in establishments of other parties;

PAR. 2. The official bodies of the dissolved accident association shall wind up the affairs under supervision of the Imperial Insurance Office.

Section Four.—Organization.

I. Membership and right to vote—representatives.

Article 1123.

Every undertaker of an establishment insured in it shall be a member of the accident association.

Article 1124.

Membership begins with the opening of the establishment and with the beginning of the insurance obligation; for the Empire and the federal States the beginning of the membership shall be regulated according to article 1119.

Article 1125.

On each vessel and in every other establishment the undertaker must make known through a placard the following:

To what section the vessel or the establishment belongs;

The location of the business office of the directorate of the accident association and of the directorate of the section.

Article 1126.

If members or their local representatives do not possess their civic rights, they shall have no right to vote.

Article 1127.

The constitution must specify the number of votes of shipowners according to the number of persons estimated according to article 1148.

Article 1128.

Paragraph 1. If the shipowner does not have his place of residence in the home port of the vessel, then he must appoint a representative of the vessel in the home port.

Par. 2. The name of the representative and changes in the person of the same are to be communicated to the accident association. The shipowner's right to vote and right to be elected shall be suspended until this has been done. So long as this is the case, he shall not be invited to the general meetings of the associations, and in matters of the association's affairs the administrative bodies or the authorities thereof shall be considered as having delivered to him any document by posting it publicly for one week in their business rooms. If his name is not known, they may replace his name in the placard by the name of the vessel. The constitution may further restrict the shipowner in the execution of his rights of membership.

Article 1129.

Paragraph 1. The representative shall in legal and other matters represent the shipowner in his capacity as member of the association before the association. A limitation in the scope of the power of the representative as against the accident association shall be without effect.

Par. 2. Communications to the representative concerning matters of the accident association shall have immediate effect for and against the shipowner.

Article 1130.

Paragraph 1. Joint owners of ships must designate a joint representative even if all of them have their place of residence in the home port. Article 1128 is here applicable.

Par. 2. The manager of the shipowning firm appointed by the joint owners of the ship shall be considered as the representative before the accident association so long as no such representative has been appointed.

ARTICLE 1131.

Articles 1128 to 1130 shall not apply to the branch institute.

II. REGISTRATION OF ESTABLISHMENTS.

ARTICLE 1132.

The authorities in charge of the shipping registry and ship's measurements must without delay send notice of the measurements and registry of new vessels to the directorate of the accident association, and the undertakers must send notice concerning the opening of other establishments to the local insurance office of the seat of the establishment.

III. REGISTER OF ESTABLISHMENTS.

ARTICLE 1133.

PARAGRAPH 1. The directorate of the accident association must keep a register of the establishments on the basis of the—

Register of ships in the German merchant marine as given in the latest edition of the handbook of the German merchant marine;

List of the undertakers which is sent to it by the Imperial Insurance Office under the provisions of article 22 of the law of July 13, 1887 (Reichs-Gesetzblatt, p. 329);

Notices concerning the opening of new establishments (art. 1132).

PAR. 2. No register of establishments shall be kept for the branch institute.

ARTICLE 1134.

Articles 658, 659, 660, sentences 1 and 2, articles 661 and 663 of the industrial accident insurance are applicable as regards registry of establishments.

IV. CHANGES IN THE CONDITIONS OF THE ESTABLISHMENT.

ARTICLE 1135.

The authorities in charge of the ship's registry shall indicate to the directorate of the accident association all changes and cancellations in the ship's register.

ARTICLE 1136.

For the vessels insured under article 1046, which are not entered in the ship's registry, the shipowners and managers of shipping firms and the representatives must report to the directorate of the accident association within the time specified by the constitution of the following matters:

Loss of the vessel (art. 1174);

Changes in the home port, name, class, and capacity of the ship;

Changes in the person and in the citizenship of the shipowners or joint owners.

ARTICLE 1137.

PARAGRAPH 1. If these reports to the directorate are not made, or the reports to the authorities in charge of the register are not made (art. 14 of the flag law, Reichs-Gesetzblatt, 1899, p. 319) then the owner or joint owner whose name is registered in the register of the establishments is liable for the contributions which are to be assessed upon the members. This liability shall further include the fiscal year in which the report is made.

PAR. 2. The new owner is not released from liability on that account.

ARTICLE 1138.

The undertakers of floating docks and of pilotage establishments and other establishments designated in article 1046, number 3, must report to the directorate of the accident association every change in the person for whose account the establishment is conducted and

all changes in the establishment which are of importance for its membership in the accident association. The report is to be made within the time limit which according to the constitution is specified for reports under article 1136. If the report is not made, then the undertaker shall suffer the same loss of rights as the shipowners in article 1137.

ARTICLE 1139.

If on the basis of the information from the reports received, or if on their own initiative the directorate of the accident association believes it necessary that the establishment shall be transferred to another accident association or because it is shut down shall be cancelled from the list, then articles 661 to 673 of the industrial accident insurance are correspondingly applicable both for the transfer and for cancellation as well as for transfer of the cost of the accidents and of a share of the reserve.

ARTICLE 1140.

PARAGRAPH 1. The obligation of giving notice in case of changes in the establishment which for the estimates are of importance (art. 1148) and the further procedure, shall be regulated by the constitution.

PAR. 2. The undertaker has the right of appeal against the decision which the accident association has issued on the basis of reports of changes or of its own initiative.

ARTICLE 1141.

If the accident association has a risk tariff, then the requirement to give notice shall apply in cases of changes in the establishment which affect the classification of establishments in the risk classes, while article 674 shall apply for the further procedure.

V. CONSTITUTION.

ARTICLE 1142.

The accident association shall regulate its internal administration and order of business by a constitution, which the general meeting of the accident association shall decide upon.

ARTICLE 1143.

The constitution must specify—

1. The name and the seat of the accident association;
2. The composition, rights, and duties of the directorate;
3. The form of the declarations of the decisions of the directorate as well as its signature on behalf of the accident association, the manner of making decisions in the directorate, and its representation as to third parties;
4. The calling of the general meeting of the accident association and its method of arriving at a decision;
5. The right to vote of the members and the examination of their credentials;
6. The representation of the accident association as against the directorate;
7. The rates for loss of earnings and for traveling expenses which are to be granted to the representatives of the insured persons (art. 21);
8. Procedure of the administrative bodies of the accident association in classifying the vessels;
9. Procedure in cases of changes in the establishment and of a change in the person of the head of the establishment;
10. The consequences of shutting down an establishment or of a change in the person of the undertaker, especially as to the guaranteeing of his contributions if he shuts down the establishment;

11. The drawing up, examining, and acceptance of the annual balance sheet;
12. The administrative action relative to the issuance of the regulations containing provisions for accident prevention and for the supervision of the establishments;
13. Procedure in case of the reporting and release from membership of undertakers, of pilots, and of other persons insured according to article 1064, number 1, who belong to the accident association, as well as concerning the amount and ascertainment of the annual earnings of undertakers and of pilots;
14. The method of publishing notices;
15. The provisions as to the amendment of the constitution.

ARTICLE 1144.

The following provisions of the industrial accident insurance shall apply for the:

Composition of the general meeting of the accident association of representatives, division of the accident association into sections and appointment of district agents (arts. 678 and 679);

Authority of the directorate of the accident association to impose penalties (art. 680);

Drawing up of the constitution (arts. 681 to 683).

ARTICLE 1145.

The directorate of the accident association must make an announcement in the Reichsanzeiger, if the constitution, with the approval of the Imperial Insurance Office, has been changed in regard to—

1. The name or seat of the accident association;
2. The districts of the sections.

VI. ADMINISTRATIVE BODIES OF THE ACCIDENT ASSOCIATION.

ARTICLE 1146.

PARAGRAPH 1. The provisions of the industrial accident insurance (arts. 685 to 689) shall be applicable as regards the administrative bodies of the accident association.

PAR. 2. Managers of shipowning firms are also eligible to the administrative bodies of the accident associations.

VII. EMPLOYEES OF THE ASSOCIATION.

ARTICLE 1147.

The provisions of the industrial accident insurance (arts. 690 to 705) shall be applicable as regards employees of the accident association and as regards the transferring of business to salaried business managers.

VIII. MAKING THE ESTIMATES—RISK TARIFF AND SPECIAL COSTS.

ARTICLE 1148.

PARAGRAPH 1. For each seagoing vessel, there shall be estimated the average number of seamen who are necessary to form the crew.

PAR. 2. An estimate shall be made according to classes (arts. 1067 to 1071) on the basis of the following:

The handbook of the German merchant marine;

The registers of undertakers which according to the provisions of articles 21 and 22 of the law of July 13, 1887 (Reichs-Gesetzblatt, p. 329) have been drawn up on the creation of the accident association;

Changes in the conditions of the establishment.

PAR. 3. The above shall not apply in the case of the branch institute.

ARTICLE 1149.

The constitution shall specify that risk classes shall be formed. In such cases articles 706 to 709 of the industrial accident insurance shall be applicable. The constitution must in such cases also contain provisions in regard to the procedure in the apportionment to the risk classes.

ARTICLE 1150.

The directorate of the accident association shall make estimates concerning the vessels and shall apportion the establishments to the risk classes as specified in the constitution.

ARTICLE 1151.

The members must upon demand within two weeks furnish such information to the administrative bodies of the accident association as is necessary to make estimates and apportionment. This shall also apply to the managers of shipowning firms, to the firms' representatives, and to the masters of the vessel.

ARTICLE 1152.

In the periods within which the risk tariff is to be re-examined, the estimates and apportionment are to be regularly verified.

ARTICLE 1153.

PARAGRAPH 1. Each member must be notified of his apportionment to the risk classes and each shipowner must be informed of the estimates of his navigation establishments.

PAR. 2. Even before the regular re-examination, the accidental association may make a new estimate of the ship's crew, and make a new apportionment of the establishment if it develops that the statements of the undertaker were incorrect or if a change has taken place in the establishment.

PAR. 3. The undertaker shall have an appeal against the estimate and apportionment.

ARTICLE 1154.

PARAGRAPH 1. On the basis of accidents which have taken place on their vessels, the general meeting of the accident association, upon application of the directorate, may either impose supplementary assessments on the undertakers or grant them a rebate for the coming tariff period or for a part of the same.

PAR. 2. The undertaker shall have the right to appeal against the determination of supplementary assessments.

ARTICLE 1155.

PARAGRAPH 1. The constitution may provide that higher contributions shall be paid for voyages with especially dangerous cargoes or in especially dangerous waters or seasons.

PAR. 2. The general meeting of the accident association shall specify the basis for such action and make regulations concerning the reporting and determination of the decisive facts.

PAR. 3. The general meeting may also transfer this matter to a committee or to the directorate.

PAR. 4. Such provisions shall require the approval of the Imperial Insurance Office. For the re-examination, articles 708 and 709 of the industrial accident insurance shall be correspondingly applicable.

ARTICLE 1156.

PARAGRAPH 1. For the single voyages (art. 1155) the administrative bodies of the accident association may increase the contributions in proportion to such voyages as have been made in each fiscal year. The details on this point shall be specified in the constitution.

PAR. 2. Article 1151 shall apply as regards the obligation to supply information.

PAR. 3. The imposition of such contributions may be contested in the same way as in the case of a protest against the determination of the contributions (arts. 1178 to 1182).

IX. ADMINISTRATION OF THE ASSETS.

ARTICLE 1157.

The provisions of the industrial accident insurance shall be applicable as regards the administration of the assets (arts. 717 to 721).

SECTION FIVE.—SUPERVISION.

ARTICLE 1158.

The Imperial Insurance Office shall conduct the supervision of the accident association.

SECTION SIX.—PAYMENT OF THE COMPENSATION—RAISING OF THE FUNDS.

I. PAYMENTS THROUGH THE POST OFFICE DEPARTMENT.

ARTICLE 1159.

PARAGRAPH 1. The compensation shall be paid by the accident association upon the authorization of its directorate through German post offices and as a rule through those post offices in whose districts is the home port of the ship upon which the accident has occurred.

PAR. 2. The directorate shall notify the payee as to the office of payment.

PAR. 3. He may apply to the directorate or at the office of payment so designated to have the payments made at the post office of his place of residence.

ARTICLE 1160.

The following articles of the industrial accident insurance are to be applied in the following cases:

Article 727 in regard to the necessary certificates for payments;
Article 728 as regards the collection of advance payments through the Post Office Department.

ARTICLE 1161.

The Imperial Insurance Office may specify the manner in which the payees are to be paid who customarily abide in a foreign country.

II. RAISING OF THE FUNDS.

ARTICLE 1162.

The means for the covering of its expenditures and for the costs of the administration of the branch institute (art. 1192) shall be raised by the accident association by means of members' contributions, which shall be sufficient for the needs of the preceding fiscal year.

ARTICLE 1163.

PARAGRAPH 1. At the branch institute the unions of communes and the undertakers belonging to the institute must pay fixed contributions, specified in advance (arts. 1195 to 1197).

PAR. 2. These contributions must cover the capitalized value of pensions which the institute will probably have to carry and in addition cover the other expnditures which the branch institute has made.

ARTICLE 1164.

PARAGRAPH 1. The provisions of the industrial accident insurance shall be applicable in the following cases:

In regard to the purposes for which the contributions may be raised and the means may be expended (arts. 736);

In regard to advances upon contributions as well as contributions paid in advance (arts. 738 and 739);

In regard to the accumulation of a reserve (arts. 741 to 747).

PAR. 2. These provisions, with the exception of article 736, shall not apply to the branch institute.

III. PROCEDURE IN ASSESSMENTS AND COLLECTIONS.

ARTICLE 1165.

PARAGRAPH 1. The directorate of the accident association shall determine which part of the payments shown to have been made by the highest postal authorities shall be charged to the accident association and which part to the branch institute.

PAR. 2. Articles 1166 to 1184 shall be applicable as regards the assessment and collection of the contributions of members.

ARTICLE 1166.

PARAGRAPH 1. Within six weeks after the expiration of the fiscal year each member of the accident association shall transmit a wage list to the directorate of the accident association.

PAR. 2. This list must contain the following:

1. For each sea-going vessel the insured persons employed during the preceding fiscal year on the vessel, but not belonging to the crew (art. 1046, No. 2);
2. For establishments operating floating docks, pilotage establishments, and other establishments designated in article 1046, No. 3, the insured persons employed in the establishment during the preceding fiscal year;

in addition, for all these persons the wage list must show the following:

The compensation earned by these persons;

If the compensation actually received by these persons is not decisive, then a computation of the earnings which is to be used in the assessment and contributions.

PAR. 3. The constitution may permit a summary wage list in accordance with article 750, paragraph 3.

ARTICLE 1167.

The provisions of the industrial accident insurance (art. 751) shall be applicable in regard to the following:

Earlier transmittal of the wage list;

The keeping and preserving of the wage list.

ARTICLE 1168.

The accident association itself may draw up or complete the wage list in the case of members who do not transmit the same promptly or completely.

ARTICLE 1169.

The contributions of the members shall be assessed according to their apportionment to the risk classes, and in the second place according to the following:

1. In case of seagoing vessels according to the amounts obtained from [1] the sum of the average wage payments (arts. 1067 to 1070) for the estimated number of men in the crew and [2] from the wage list; supplementary charges, rebates, or increases of contributions (arts. 1154 and 1155) are to be considered in this connection.
2. In the case of other establishments according to the wage list.

ARTICLE 1170.

If during the period of contribution the annual amount of the wage

payments exceeds 1,800 marks [$428.40], then of the excess only one-third shall be included in the computation. If it exceeds 5,000 marks [$1,190], then the excess shall be included in the computation only so far as the constitution has extended the insurance to a higher amount of the annual earnings.

ARTICLE 1171.

PARAGRAPH 1. In the case of vessels which are proved to have been out of commission without interruption for a period longer than 14 days, the contribution is to be proportionately reduced for that period of inactivity which exceeds 14 days.

PAR. 2. It shall be reduced for that fiscal year in which the vessel was out of commission. If the period of inactivity extends over into the following fiscal year, then the reduction as far as necessary shall be postponed until then.

ARTICLE 1172.

PARAGRAPH 1. The contributions shall be reduced only if the shipowner, manager of the shipowning firm, or representative shall within six weeks after the expiration of the fiscal year prove to the directorate of the accident association an interrupted period of inactivity, in the form of a certificate which has been duly attested.

PAR. 2. If the vessel returns to the home port only after the expiration of the fiscal year, then proof can be brought even within six weeks following the return; the contribution, however, must for the time being be paid in full.

ARTICLE 1173.

PARAGRAPH 1. In the case of vessels which in the course of the fiscal year have been lost or are missing (arts. 862 and 863 of the Commercial Code), the directorate of the accident association on its own initiative shall reduce the contributions as soon as the facts which are decisive on the question have been made known to it.

PAR. 2. The reduction shall begin with the date of the loss, or one-half a month after the date up to which the latest news in regard to the vessel reaches.

PAR. 3. If in the case of the loss of the vessel German seamen are transported homeward free of charge upon a German seagoing vessel or are brought back on the vessel (art. 1054, No. 2), then the contribution shall not be reduced for this period.

PAR. 4. If the contribution had already been paid, then it shall be returned to the proper proportion.

ARTICLE 1174.

A vessel shall be considered as lost also in the cases when it has sunk, has been condemned as of insufficient value for repair, and on that account has been publicly sold without delay, also when it has been robbed, captured, or detained and declared a valid prize.

ARTICLE 1175.

The directorate of the accident association shall compute the contribution to be apportioned to each member for the covering of the total expenditure.

ARTICLE 1176.

The provisions of the industrial accident insurance (art. 754) are applicable as regards extracts from the assessment roll, its communication, and the request for payment; if a manager of the shipowning firm, or representative, has been appointed, then these are to receive notices.

ARTICLE 1177.

Articles 755 and 756 are correspondingly applicable as regards a new determination of the contribution after the extract has been transmitted. The new determination is also permissible when at

a later time, because of incorrect statements of the undertaker, the ship's crew has again been estimated (art. 1153) or facts become known on account of which certain voyages are to be specially assessed (art. 1155).

ARTICLE 1178.

PARAGRAPH 1. A protest against the determination of the contributions may be made by a representative or manager of the shipping establishment, and if such has not been appointed, by a member. Articles 757, 758, paragraph 1, and article 759 of the industrial accident association are correspondingly applicable.

PAR. 2. The apportionment and the making of the estimate (arts. 1150 and 1152) may not be contested in this manner.

ARTICLE 1179.

PARAGRAPH 1. Appeals against the decision of the directorate may only be based upon the following:

Mistakes in the computation:

Incorrect rating of the estimate of the crew necessary for the vessel;

Incorrect rating in any other class of the risk tariff than that to which the establishment belongs;

Insufficient consideration of the rebates (art. 1154);

Incorrect determination of the duration of employment and of the annual earnings of the insured persons who are employed in establishments other than those engaged in navigation;

Insufficient deductions on account of the inactivity of the vessel.

PAR. 2. An appeal on account of the two last-mentioned reasons is not permissible if the directorate has itself drawn up or computed the wage list or has not reduced the contributions because of the negligence of the persons required to do so.

ARTICLE 1180.

PARAGRAPH 1. If individual voyages have been specially assessed (art. 1155), then an appeal may be based on the claim that the actual prerequisites for a higher contribution do not exist.

PAR. 2. This shall not apply if the person required to do so has neglected to file the required reports.

ARTICLE 1181.

If, upon protest or appeal, the contribution has been reduced, then article 760 shall be applicable as regards the covering of the deficit and the balancing of the excess payment. The same article shall also apply if the loss of the vessel has only been dtermined at a later time.

ARTICLE 1182.

If it later develops that a contribution paid without protest was collected either wholly or partly without right, then articles 1178 to 1181 shall be correspondingly applicable.

ARTICLE 1183.

The shipowner is liable not only with the ship and the freight, but also personally for the contributions, for the advance upon contributions, and for amounts deposited as guaranties (art. 1143, No. 10). Joint owners are liable in proportion to their shares in the ship.

ARTICLE 1184.

PARAGRAPH 1. Article 762 is applicable in regard to the covering of contributions which can not be collected.

PAR. 2. The accident association may transfer to the manager of the shipping firm or representative thereof the compulsory collection of amounts which are a charge upon a shipping firm or upon a joint owner.

IV. TRANSFERRING AMOUNTS TO THE POST OFFICE DEPARTMENT.

ARTICLE 1185.

The provisions of the industrial accident insurance are applicable as regards the transferring of amounts to the post office (arts. 777 to 782).

SECTION SEVEN.—BRANCH INSTITUTE FOR SMALL-SCALE ESTABLISHMENTS ENGAGED IN NAVIGATION AND IN DEEP-SEA FISHING AND COAST FISHING.

ARTICLE 1186.

Those persons are insured in the branch institute who are engaged in establishments engaged in navigation and fishing as described in article 1120.

ARTICLE 1187.

The following are also insured in the branch institute:

1. Undertakers subject to the insurance according to article 1058 who conduct navigation and fishing establishments as a business.
2. Those undertakers who are in charge of establishments engaged in navigation and fishing of the kind described in article 1120, who have insured themselves.

ARTICLE 1188.

The branch institute may not undertake other kinds of insurance.

ARTICLE 1189.

The administrative bodies of the accident association administer the branch institute unless the constitution of the latter provides otherwise (art. 1194).

ARTICLE 1190.

PARAGRAPH 1. The income and expenditures of the branch institute are to be accounted for separately, and its assets are to be kept separately.

PAR. 2. As far as is necessary, the accident association must advance the means for conducting the business of the branch institute from the reserve of the association.

ARTICLE 1191.

The assets which are specified as belonging to the branch institute may not be used for the purposes of the accident association.

ARTICLE 1192.

The accident association shall bear the cost of administration of the branch institute.

ARTICLE 1193.

Article 791 shall be applicable in regard to the participation of the branch institute in the advance payments to the post office.

ARTICLE 1194.

The general meeting of the accident association must draw up a separate constitution for the branch institute. Article 792, paragraph 2, article 793, Nos. 1, 2, 4, and 6, articles 794 and 796 of the industrial accident insurance are correspondingly applicable as regards this constitution. Article 793, No. 1, is to be correspondingly applied to undertakers subject to the insurance.

ARTICLE 1195.

PARAGRAPH 1. At least once in every five years the Imperial Insurance Office shall specify the contributions in advance.

PAR. 2. These contributions are to be paid by those unions of communes of the coast States which include coast districts, and shall be apportioned to the communes according to the number of insured

persons who are engaged in their districts. The highest administrative authority shall specify the details in this connection.

PAR. 3. The Federal Council may order that in the apportionment of the contribution, the duration of the employment and variations in the customary daily wages of the locality, are to be considered.

ARTICLE 1196.

PARAGRAPH 1. The individual union of communes shall raise one-half of the contributions in the same manner as its other expenditures.

PAR. 2. The other one-half of the contributions shall be collected from the undertakers affected through the intervention of the union or of the communes. The union of communes shall specify the details in this connection.

PAR. 3. The union of communes or the communes are responsible for contributions which are not collectible, and with the approval of their supervisory authorities they may defray either wholly or partly the cost from their own funds.

PAR. 4. They may specify that the undertakers shall report to their directorate every change in the person for whose account the establishment is conducted. If the report is not made, then the employer shall be responsible according to article 1137.

ARTICLE 1197.

The undertaker shall have the right to appeal to the superior insurance office against being called on for contributions.

SECTION EIGHT.—ADDITIONAL INSTITUTIONS.

ARTICLE 1198.

The provisions of the industrial accident insurance shall apply to additional institutions of the accident association (arts. 843 to 847).

SECTION NINE.—ACCIDENT PREVENTION—SUPERVISION.

I. REGULATIONS FOR THE PREVENTION OF ACCIDENTS.

ARTICLE 1199.

PARAGRAPH 1. The accident association is required to issue the requisite regulations concerning the following:

1. For the undertakers concerning the arrangements and rules for the prevention of accidents as well as concerning the equipment of vessels;
2. Concerning the rules of conduct which insured persons must observe for the prevention of accidents in establishments.

PAR. 2. The regulations for the prevention of accidents are also to be issued for individual districts and for specified classes of vessels or establishments.

ARTICLE 1200.

An appropriate period of time must be given to the undertakers to provide the prescribed arrangements for the prevention of accidents.

ARTICLE 1201.

Contraventions on the part of undertakers against the regulations may be punished by fines up to 1,000 marks [$238], those of the injured person up to 6 marks [$1.43]. The insured person is not to be punished if he has violated regulations in carrying out the orders of his superior.

ARTICLE 1202.

In addition to the shipowner, the accident association may also declare the ship's master to be responsible for the execution of the regulations issued as above. For each neglected act, fines up to 300 marks [$71.40] can be imposed upon him.

ARTICLE 1203.

Articles 852 to 856 of the industrial accident insurance are applica-

ble as concerns the decisions regarding the regulations and the preparation, while article 857 shall apply as regards the attitude to the reports of the technical supervisory officer.

ARTICLE 1204.

The representatives of the insured persons shall be selected by lot from a number of associates competent for navigation in the superior insurance office, and the lot shall be drawn by the chairman of the directorate in one of its sessions.

ARTICLE 1205.

PARAGRAPH 1. The following articles of the industrial accident insurance shall be correspondingly applicable in the following cases:

Article 859 as regards the election of representatives of the insured persons;

Article 861 as regards the election of substitutes for the representatives of the insured persons;

Article 863 as regards the allowances for representatives of insured persons;

Articles 864 to 868 as regards the approval of the regulations and the procedure in preparation thereof.

PAR. 2. The provisions of articles 16, 19 to 22, and 24 as regards elected representatives of insured persons shall also be correspondingly applicable to these representatives of the insured persons and their substitutes.

ARTICLE 1206.

The directorate of the accident association shall communicate the approved regulations to the higher administrative authorities and all marine offices affected, and shall publicly placard the regulations in the business offices of the latter and in the seamen's homes.

ARTICLE 1207.

The directorate of the accident association shall be competent for determining the fines imposed on the undertakers.

ARTICLE 1208.

PARAGRAPH 1. That marine office (*Seemannsamt*) shall determine the fines imposed on the masters of vessels which has first recognized the neglect (art. 1202) and shall enter the same in the ship's log. These fines are to be collected immediately.

PAR. 2. Against the imposition of such fines, the master of the vessel, the ship's owner, manager of the shipping firm or representative shall have the right to appeal to the supervisory authority of the marine office (*Seemannsamt*) within one month after the end of the voyage.

PAR. 3. The same or another marine officer (*Seemannsamt*) may again impose a fine if in the meantime the order has not been obeyed, unless it can be shown that it was impossible of execution.

PAR. 4. The local insurance office shall be competent as regards the imposition of fines on the insured persons (art. 1199, par. 1, No. 2).

II. SUPERVISION.

ARTICLE 1209.

Articles 874 and 875 of the industrial accident insurance are applicable as regards the execution of the regulations for the prevention of accidents.

ARTICLE 1210.

PARAGRAPH 1. In order to verify the reports transmitted according to law or constitution, the accident association can, through accounting officials, inspect the ship's log, muster rolls, certificates, bill of tonnage, and other ship's papers and lists from which may be

ascertained the number of insured persons as well as the extent and duration of the completed voyages.

PAR. 2. The local insurance office may also undertake such examination.

ARTICLE 1211.

With the approval of the Imperial Insurance Office, the business of the technical supervisory official and the accounting official may be combined in one person.

ARTICLE 1212.

In their business office, the authorities are under obligation to place open for inspection of the accounting officials of the accident association all transactions and documents which relate to conditions of the vessel and the crew thereof.

ARTICLE 1213.

PARAGRAPH 1. The ship's owners, managers of the shipping concern, and representatives as well as masters of vessels must permit the technical supervisory officials to enter their vessels and inspect the same and must open for inspection on the spot the ship's papers and lists for the inspection of the accounting officials.

PAR. 2. In the same manner, the other undertakers must permit the inspection of their establishments and present their lists for inspection.

ARTICLE 1214.

PARAGRAPH 1. The marine office (*Seemannsamt*) may investigate vessels for the purpose of ascertaining whether the regulations for the prevention of accidents have been complied with.

PAR. 2. The obligations arising out of articles 1212 and 1213 are also applicable to the marine office. The marine office must be permitted to enter fines imposed by it in the ship's log.

ARTICLE 1215.

Upon the application of the technical supervisory officials or of the accounting officials, the marine office (*Seemannsamt*) can impose upon persons, obliged to do so according to articles 1210, 1213, and 1214, fines up to 300 marks [$71.40] to force them to perform their duties.

ARTICLE 1216.

PARAGRAPH 1. The provisions of the industrial accident insurance are applicable as regards the following:

Taking of the oath (art. 882);

Communicating the name and residence of the technical supervisory officials as well as the activities of the latter (art. 883).

PAR. 2. However, the higher administrative authorities or the authorities or officials designated by them shall take the place of the State supervisory official in regard to the communication.

ARTICLE 1217.

PARAGRAPH 1. The provisions of the industrial accident insurance are applicable in regard to—

Damages to the undertakers in the case of neglecting to comply with the obligation as regards supervision (art. 887);

Supervision through the local insurance office and the Imperial Insurance Office (arts. 888 and 889).

PAR. 2. The accident association is also authorized in case of inspection of unclassified vessels to collect from the owners of the latter those costs which have arisen through the determination of the condition of the hull of the vessel and the machinery equipment and which were an increase as compared with the cost of inspecting classified vessels. Costs of this kind shall likewise be collected in the same manner as communal taxes.

SECTION TEN.—ESTABLISHMENTS OF THE EMPIRE AND OF THE STATES.

ARTICLE 1218.

PARAGRAPH 1. Articles 892, 893, 895, and 887 are correspondingly applicable whenever the Empire or a federal State shall take the place of the accident association.

PAR. 2. In such a case, the following provisions of the navigation accident insurance shall not apply:

The provisions concerning dissolution of the accident association (art. 1122 in connection with art. 647, pars. 1 and 3);

The provisions in regard to the constitution contained in articles 1123 to 1156 and article 1157 in connection with articles 717 to 720;

The provisions concerning supervision (art. 1158);

The provisions in regard to raising of funds as well as the procedure in the assessment and collection (arts. 1162 to 1184);

The provisions concerning transferring of amounts to the post office contained in article 1185 in connection with articles 781 and 782;

The provisions in regard to the branch institute (arts. 1186 to 1197);

The provisions relating to additional institutions (art. 1198);

The provisions relating to the prevention of accidents and supervision contained in articles 1199 to 1216 and article 1217, paragraph 1, in connection with articles 887 and 889 as well as article 1217, paragraph 2;

The penal provisions contained in articles 1220 to 1223 and 1224 in connection with article 910.

SECTION ELEVEN.—LIABILITY OF UNDERTAKERS AND THEIR REPRESENTATIVES.

ARTICLE 1219.

PARAGRAPH 1. The provisions of the industrial accident insurance (arts. 898 to 907) are applicable as regards the liability of undertakers and their employees.

PAR. 2. In such cases joint owners, pilots and persons of the ship's crew shall have the same status (art. 899).

PAR. 3. This provision shall apply in the case of collision of several vessels which are subject to the navigation accident insurance, to the shipowners of all vessels affected thereby, and to all persons having an equal status with the shipowners.

PAR. 4. Claims for compensation for damages sustained through accident, which a person insured in the branch institute has in the case of bodily injury according to law for the first 13 weeks, shall be retained, provided that the injured person does not have a claim to the benefits of the sickness insurance against a sick fund, miners' sick fund or substitute fund, or if the injured person is exempt from the insurance on account of being entitled to benefits of equal value.

PAR. 5. However, the obligation to provide relief which rests upon the shipowner on the basis of articles 553 to 553*b* of the Commercial Code and articles 59 to 62 of the Navigation Code are not affected hereby.

SECTION TWELVE.—PENAL PROVISIONS.

ARTICLE 1220.

The accident association may impose fines up to 500 marks [$119] upon undertakers, joint owners, managers of shipping firms, representatives and masters of vessels if in the three cases mentioned herewith the reports actually contained statements whose incorrect-

ness these persons either knew or under the circumstances must have known; these cases are the following:

1. Reports of the kind not designated in article 1581 which they have transmitted in compliance with the law or constitution;
2. An information which is demanded of them according to the law or constitution;
3. Explanations which must be transmitted to the competent official bodies of the accident association for the purpose of assignment to risk classes.

ARTICLE 1221.

The directorate of the accident association may in addition impose a fine up to 300 marks [$71.40] upon persons designated in article 1220 if they do not promptly comply with their duties as specified in the law or in the constitution as regards the—

1. Appointment of representatives or communication of their names or change of them to the directorate of the accident association;
2. Reporting of changes in the establishment;
3. Transmission of reports;
4. Furnishing of information;
5. Complying with the provisions of the constitution in regard to the shutting down of establishments.

ARTICLE 1222.

In so far as on the basis of this law undertakers or joint owners are liable to penalties the following persons shall be considered as having the same status:

1. All members of the directorate wherever a stock company, mutual insurance association, registered co-operative society, guild, or other legal person is the undertaker or joint owner;
2. The business managers, if an association with limited liability is the undertaker or joint owner;
3. All copartners personally liable provided that they are not excluded from representation if another form of business corporation is the undertaker or joint owner;
4. The legal representative of undertakers not legally competent to transact business, or partially so, as well as liquidators of a business corporation, a mutual insurance association, a registered co-operative society, a guild, or any other legal person.

ARTICLE 1223.

The employer is liable for the fines which according to article 1183 have been imposed upon him or the ship's master upon the basis of articles 1220 to 1222.

ARTICLE 1224.

The following provisions of the industrial accident insurance shall be correspondingly applicable:

Article 910 in regard to appeals against the determination of fines;

Article 911 in regard to deducting the contributions from the earnings and in such cases shall also be applicable to joint owners, masters of vessels and their employees;

Article 914 in regard to the funds to which the fines shall accrue, however, in place of the sick fund of the place of employment, that sick fund shall receive the sum in whose district the establishment has its seat.

ARTICLE 1225.

The provisions against limiting the insured persons in their rights contained in this law (art. 139) shall also apply to joint owners, master of vessels and their employees and likewise the penal provisions as regards contravention (art. 140).

BOOK FOUR—INVALIDITY AND SURVIVORS' INSURANCE.

SECTION ONE.—SCOPE OF THE INSURANCE.

I. COMPULSORY INSURANCE.

ARTICLE 1226.

PARAGRAPH 1. Beginning with the completed sixteenth year of age, the following persons are insured in case of invalidity and old age and in addition in favor of their survivors as specified herewith:

1. Workmen, helpers, journeymen, apprentices, and servants.
2. Establishment officials, foremen, and other employees in similar higher positions if such employment is for all of them their principal occupation.
3. Clerks and apprentices in commercial establishments, clerks and apprentices in pharmacies.
4. Members of the stage and of orchestras without regard to artistic value of their services.
5. Teachers and tutors.
6. The crews of German seagoing vessels and the crews of vessels engaged in inland navigation.

PAR. 2. The prerequisite of insurance for all of these persons is that they shall be employed for compensation (art. 160), and for those designated under Nos. 2 to 5, as well as for masters of vessels that their regular annual earnings in the form of compensation shall not exceed 2,000 marks [$476].

ARTICLE 1227.

An employment in which the compensation consists only of free board and lodging is exempt from insurance.

ARTICLE 1228.

Those Germans are also insured who are employed in an official representative office of the Empire or of a federal State in a foreign country or employed by the directors or members thereof.

ARTICLE 1229.

The Federal Council may either generally or for single districts extend the insurance obligation for specified branches of the industry to the following:

1. Persons carrying on business or other undertakers of establishments who regularly employ in their establishments either no one or at the most one person subject to the insurance.
2. Persons engaged in home-working industries (art. 162) without regard to the number of their home-working employees.

ARTICLE 1230.

The Federal Council may specify in how far persons conducting a business (or persons giving the order, art. 469) are required to fulfill the obligations of an employer for the following:

1. Persons engaged in home work upon their order and for their account, as well as home-working employees of such persons;
2. Persons employed in home work upon their order by intermediate persons, distributors, factors, and zwischenmeisters.

ARTICLE 1231.

The Federal Council may specify how far Germans in the service of foreign States and such persons who are not subject to German jurisdiction are required to fulfill the obligation of employers.

ARTICLE 1232.

The Federal Council shall specify in how far temporary services shall remain exempt from the insurance.

ARTICLE 1233.

PARAGRAPH 1. The Federal Council may specify that foreigners shall be exempt from insurance whose sojourn in Germany has been permitted by the authorities for only a specified time.

PAR. 2. In such cases, the employer shall pay according to the orders of the Imperial Insurance Office such an amount to the insurance institute as they would otherwise have to pay from their own means.

ARTICLE 1234.

PARAGRAPH 1. Exempt from the insurance are employees in the establishments or in the service of the Empire, of a federal State, of a union of communes, and of a commune or of an insurance carrier, if there has been guaranteed to them a claim to retirement pension equal to the minimum amount of the invalidity pension according to the rates of the first wage class as well as to widows' pension according to rates of the same wage class and likewise to orphans' pensions.

PAR. 2. The same shall apply to teachers and tutors in the public schools or institutions.

ARTICLE 1235.

The following are exempt from the insurance:

1. Officials of the Empire, of the federal States, of the unions of communes, of the communes, of the insurance carriers, and teachers and tutors in the public schools or institutions, as long as they are being trained solely for their occupation;
2. Military persons who carry on during their service or during their training for a civil employment, one of the occupations designated in article 1226, to which article 1234 is to be applied;
3. Persons who are employed in teaching for a compensation, during the scientific training for their future occupation.

ARTICLE 1236.

Whoever is receiving an invalidity or survivors' pension according to imperial law or is an invalid shall be exempt from insurance (arts. 1255 to 1258).

ARTICLE 1237.

Upon application the following persons shall be exempt from the insurance obligation, if they have been guaranteed retirement pensions, part pay, or similar receipts equal in amount to the minimum invalidity pensions according to the rates of the first wage class and in such connection have been guaranteed a claim to survivors' relief (art. 1234). These persons are—

Whoever has been guaranteed these benefits by the Empire, a federal State, a union of communes, a commune, or an insurance carrier;

Whoever has been guaranteed these benefits on the basis of earlier employment as teacher or tutor in a public school or institution.

ARTICLE 1238.

Upon their application, there shall be exempt from the insurance

obligation, those persons subject to the insurance who have been employed during or after the time of their college training as preparation for their future occupation, or have been employed in a position which forms a transitory step to an employment both exempt from insurance and corresponding to an employment requiring a college training.

ARTICLE 1239.

PARAGRAPH 1. Upon his application there shall be exempt from insurance obligation whoever in the course of a calendar year undertakes work for wages only in specified seasons of the year for not more than 12 weeks or all together for not more than 50 days, but in other respects procures independently his maintenance or is employed without compensation. The exemption is permissible only as long as, according to article 1279, 100 computable weekly contributions have not been paid.

PAR. 2. The Federal Council may determine particulars hereto.

ARTICLE 1240.

PARAGRAPH 1. The local insurance office (decision committee) competent for the place of residence of the person making the application shall decide thereon. If the applicant has no residence in Germany, then the local insurance office of the place of his permanent abode shall decide. On appeal, the superior insurance office shall decide finally.

PAR. 2. Exemption shall be effective from the date of receipt of the application.

ARTICLE 1241.

PARAGRAPH 1. The local insurance office (decision committee) shall revoke the exemption as soon as the prerequisites required thereby are no longer present; upon appeal the superior insurance office shall decide finally.

PAR. 2. The insurance obligation shall again enter into force upon the relinquishment of the exemption and upon its final revocation.

ARTICLE 1242.

Upon the application of the employer, the Federal Council shall specify in how far articles 1234 and 1235, No. 1, articles 1237, 1240 and 1241 shall be applicable to the following:

1. Persons employed in establishments or in the service of other public unions or corporations or as teacher and tutor in nonpublic schools and institutions, if the claims designated in article 1234 have been guaranteed to them or if they are only being trained for their occupation;
2. Persons to whom on the basis of earlier employment in such unions or corporations, schools or institutions, have been guaranteed retirement pensions, part pay, or similar benefits equal to the minimum amount of the invalidity pension according to the rates of the first wage class, and in addition thereto have been guaranteed a claim to survivors' relief (art. 1234);
3. Officials and employees of the court, domanial, cameralistic, forestry, and similar administrations of the State sovereigns, as well as of the ducal regency of Brunswick and the administration of the entailed estates of the princes of Hohenzollern.

II. VOLUNTARY INSURANCE.

ARTICLE 1243.

PARAGRAPH 1. Up to their completed fortieth year of age the following persons are entitled to join the insurance voluntarily (self-insurance):

1. The persons designated in article 1226 under Nos. 2 to 5 and masters of vessels, if their regular annual earnings are more than 2,000 marks [$476] but do not exceed 3,000 marks [$714];
2. Persons carrying on a business and other undertakers of establishments who employ regularly in their establishments either no one or at the most two persons subject to the insurance, as also persons engaged in home work;
3. Persons who are exempt from the insurance according to articles 1227 and 1232.

PAR. 2. When they cease to comply with the conditions which are the basis for self-insurance, those entitled to self-insurance may continue the same or renew it at a later time according to article 1283.

ARTICLE 1244.

Whoever ceases to have the status of a person subject to the insurance may voluntarily continue the insurance or renew it at a later time according to article 1283 (continuation of insurance).

III. WAGE CLASSES.

ARTICLE 1245.

The following classes are created for insured persons on the basis of the amount of the annual earnings:

Class I, up to 350 marks [$83.30];
Class II, over 350 marks [$83.30] and up to 550 marks [$130.90];
Class III, over 550 marks [$130.90] and up to 850 marks [$202.30];
Class IV, over 850 marks [$202.30] and up to 1,150 marks [$273.70];
Class V, over 1,150 marks [$273.70].

ARTICLE 1246.

PARAGRAPH 1. Unless the following provisions specify otherwise, an average amount instead of the actual annual earnings shall be decisive as regards the apportionment to the wage classes.

PAR. 2. The annual earnings shall be considered as the following:

1. For members of a sick fund or of a miner's sick fund, 300 times the basic wage (arts. 180, 181).
2. For seamen insured on the basis of article 1046, number 1, in so far as the imperial chancellor has determined for them an average amount (arts. 1067 to 1071), the amount so determined.
3. Otherwise 300 times the amount of the local wage rate in so far as the superior insurance office has not specified it otherwise for single branches of industry.

PAR. 3. Agricultural establishment officials belong to the third class and teachers and tutors to the fourth class in so far as the former do not show annual earnings in excess of 850 marks [$202.30] and the latter in excess of 1,150 marks [$273.70].

ARTICLE 1247.

If a fixed cash compensation has been agreed upon in advance for periods of weeks, months, quarters, or years and this exceeds the average amount, then the cash compensation is to be used.

ARTICLE 1248.

Insurance in a higher wage class is permitted, but the employer is only then required to pay the higher contribution if he has made an agreement with the insured person to this effect.

ARTICLE 1249.

The insurance institute shall publish the wage classes and the con-

tributions for the individual localities of its district and for each group of insured persons.

Section Two.—Benefits of the Insurance.

I. General provisions.

Article 1250.

The benefits of the insurance consist of invalidity pensions or old-age pensions, as well as pensions, widows' money, and orphans' settlements for the survivors.

Article 1251.

Invalidity or old-age pensions shall be received by whoever proves the existence of invalidity or of the age specified in the law as well as proof of the waiting term and has kept his claim in force.

Article 1252.

Relief for survivors shall be granted if the deceased at the time of his death has fulfilled the waiting term for invalidity pensions and had kept the claim alive; widow's money and orphans' settlements shall be granted only if the widow in addition at the time when these benefits became due has herself fulfilled the waiting term for invalidity pensions and has kept the claim alive.

Article 1253.

Computed from the receipt of the application thereof, no arrears of pension shall be paid for more than one year of the period preceding the application, unless the person entitled has been hindered through conditions which were beyond his control from making the application at the proper time. In such case, the application shall be made within three months after the preventing cause has been removed.

Article 1254.

Paragraph 1. Whoever purposely makes himself an invalid shall lose the claim to a pension.

Par. 2. If the insured person or the widow has incurred the invalidity while committing an act which according to the verdict of a court is a crime, or intentional misdemeanor, then the pension may be denied either wholly or in part. Contraventions of mining regulations or of article 93, paragraphs 2 and 3, and articles 95 to 97, of the Navigation Code, shall not be considered as misdemeanors in the meaning of the preceding sentence. Invalidity pensions or widows' pensions may be either wholly or partly transferred to relatives living in Germany if the insured person or the widow have previously either wholly or partly supported them from their earnings. In the meaning of this paragraph, German protectorates shall be considered as parts of the Empire.

Par. 3. The pension may also be denied if no verdict of a court has been rendered because of the death, absence, or any other cause connected with the person of the applicant.

II. Invalidity pensions.

Article 1255.

Paragraph 1. Without regard to age, an insured person shall receive an invalidity pension if, as the result of sickness or other infirmity, he has become a permanent invalid.

Par. 2. That person shall be considered an invalid who is no longer in a condition to earn, through work which corresponds to his powers and abilities, and which with a proper consideration of his education and his previous occupation he may be expected to perform, one-third of that amount which persons physically and mentally sound of

the same kind and with similar education are accustomed to earn through labor in the same region.

PAR. 3. Invalidity pensions shall also be received by insured persons who are not permanent invalids, but who have been such during 26 weeks without interruption or have been invalids after the cessation of the pecuniary sick benefit; the compensation shall be paid for the further duration of the invalidity (sickness pensions).

ARTICLE 1256.

The invalidity pension shall commence on the day on which the invalidity begins, but without affecting articles 1253 and 1255, paragraph 3. If the beginning of the invalidity can not be determined, this date shall be considered as the one on which the application for a pension was received by the local insurance office.

III. OLD-AGE PENSIONS.

ARTICLE 1257.

Old-age pensions shall be received by the insured person beginning with the completed seventieth year of life even if he is not an invalid.

IV. BENEFITS OF SURVIVORS.

ARTICLE 1258.

PARAGRAPH 1. The widow's pension shall be received by a permanently invalided widow after the death of her insured husband.

PAR. 2. That widow shall be considered an invalid who is no longer in a condition to earn, through work which corresponds to her powers and abilities, and which with a proper consideration of her education and her previous social status she may be expected to perform, one-third of that amount which physically and mentally sound women of the same kind and with similar education are accustomed to earn through labor in the same region.

PAR. 3. Invalidity pensions shall also be received by widows who are not permanent invalids, but who have been such during 26 weeks without interruption, or have been invalids after the cessation of the pecuniary sick benefit; the compensation shall be paid for the further duration of the invalidity (widows' sickness pensions).

ARTICLE 1259.

Orphans' pensions shall be received after the death of the insured father by his legitimate children under 15 years of age, and after the death of a female insured person by her fatherless children under 15 years of age. Illegitimate children shall also be considered as fatherless.

ARTICLE 1260.

PARAGRAPH 1. After the death of the insured wife of a disabled husband, who during her life has supported her family either wholly or principally out of her earnings, the legitimate children under 15 years of age shall receive orphans' pensions and the husband a widower's pension as long as the indigence lasts.

PAR. 2. In regard to orphans' pensions, this provision shall be applicable even if at the time of the death of the insured person the marriage had been dissolved.

ARTICLE 1261.

PARAGRAPH 1. After the death of the insured wife, whose husband without legal grounds has remained away from the common household and has not complied with his duties of support as a father, the legitimate children under 15 years of age shall receive orphans' pensions as long as they are indigent.

PAR. 2. This provision shall also apply if at the time of the death of the insured, the marriage had been dissolved and the husband has failed to fulfill his duty of support as a father.

ARTICLE 1262.

If the insured person leaves orphan grandchildren under 15 years of age whose support, either wholly or partially, he had defrayed, then they shall receive orphan's pensions as long as they are indigent.

ARTICLE 1263.

The pensions of the survivors begin with the date of the death of the one furnishing the support. If the widow on this date was not yet an invalid, then the beginning of the pension shall be determined by article 1256 or article 1258, paragraph 3.

ARTICLE 1264.

The widow's money shall become due at the death of the husband and orphan's settlements at the completion of the fifteenth year of the lives of the children.

ARTICLE 1265.

PARAGRAPH 1. The legal benefits shall also be granted in cases when the insured person is missing. He shall be considered as missing if during one year no trustworthy news has been received concerning him and the circumstances make his death seem probable.

PAR. 2. The local insurance office may demand from the survivors a solemn declaration that they have received no news concerning the existence of the missing person other than that which they have reported.

ARTICLE 1266.

The date of the death of a missing person shall be fixed by the insurance institute according to its own discretion. Article 1100, paragraph 1, shall be applicable as regards persons who have disappeared while at sea.

ARTICLE 1267.

Survivors shall have no claim to the benefits if they have intentionally brought about the death of the insured person.

ARTICLE 1268.

PARAGRAPH 1. The claim of the survivors of a foreigner, if they at the time of his death did not customarily live in Germany, shall be limited to one-half of the benefits without the imperial subsidy.

PAR. 2. The Federal Council may suspend this limitation for foreign border territories or for subjects of such foreign States whose legislation guarantees corresponding relief.

PAR. 3. In the meaning of paragraph 1, German protectorates shall be considered as parts of the Empire.

V. MEDICAL TREATMENT.

ARTICLE 1269.

In order to prevent impending invalidity of an insured person or of a widow resulting from sickness, the insurance institute may inaugurate a course of medical treatment.

ARTICLE 1270.

PARAGRAPH 1. The insurance institute may in particular place the insured person in a hospital or in an institution for convalescents.

PAR. 2. If the sick person is married and lives together with his family or has a household of his own, or is a member of the household of his family, then his consent thereto shall be required.

PAR. 3. In the case of a minor person, his consent shall be sufficient.

ARTICLE 1271.

The relatives of the sick person whose support he has either wholly or principally defrayed out of his earnings shall, during the course of treatment (art. 1270) receive house money even in cases where he has no claim against the sick fund, the miners'

sick fund, or the substitute fund. It shall amount to one-fourth of the local wage for an adult laborer. If, however, up to the assumption of the matter by the insurance institute, the sick person was subject to the sickness insurance, the house money shall be based on the provisions of the sickness insurance for that time also for which the obligation of the sick fund no longer exists. An invalidity pension or widow's pension may be either wholly or partly refused for the duration of the course of treatment. The house money shall not be paid, for the time and to the extent that wages or salary are paid, on the basis of a legal claim.

ARTICLE 1272.

If the sick person without legal or other reasonable ground declines to receive the medical treatment (art. 1269) and if the invalidity could probably have been prevented through the medical treatment, then the pension may, for the time being, be refused either wholly or partly if the sick person has been notified of this consequence.

ARTICLE 1273.

In regard to controversies which have not been settled on the determination of the pension, the superior insurance office shall decide finally upon the appeal.

ARTICLE 1274.

With the approval of the supervisory authority, the insurance institute may expend its funds to promote or to carry out general measures for the prevention of premature invalidity among insured persons or improve the health conditions of the population subject to the insurance. Approval may also be granted for the expenditure of lump sums.

VI. PAYMENTS IN KIND INSTEAD OF PENSIONS.

ARTICLE 1275.

PARAGRAPH 1. With the approval of the higher administrative authority, the communes or unions of communes may by legal enactment specify that pensions up to two-thirds of their amount shall not be paid in cash but in kind. This shall apply only to pensioners who reside in the district: *Provided*, That these or those supporting them receive no wages as agricultural workers, but according to local custom are paid either wholly or partly in kind, and provided a mutual agreement is reached concerning the payment in kind instead of a pension.

PAR. 2. In the case of orphans' pensions, the consent of the guardian shall be required in addition. The latter must secure the approval of the orphans' court.

PAR. 3. The value of the commodities shall be determined by the higher administrative authority according to the average prices.

ARTICLE 1276.

PARAGRAPH 1. Payments in kind shall be granted by the commune of the place of residence. The claim to the pension shall be transferred to the commune to the extent of the value of the payments in kind.

PAR. 2. The local insurance office (decision committee) shall decide controversies between the commune and the beneficiary. The superior insurance office shall decide finally upon appeal.

PAR. 3. If the claim to the pension has been transferred to the commune finally, then the insurance institute shall notify the Post Office Department.

ARTICLE 1277.

PARAGRAPH 1. The constitution of the insurance institute may au-

thorize the directorate to place the pensioner, upon his application, in a home for invalids or orphans' home or in a similar institution and use the pension either wholly or partly for this purpose.

PAR. 2. Invalid homes and similar institutions shall be considered as hospitals, asylums, and medical institutions in the meaning of article 11, paragraph 2, and article 23, paragraph 2, of the law relating to the place of residence as regards the claim for support (Reichs-Gesetzblatt, 1908, p. 381).

PAR. 3. Placing the pensioner in such an institution operates as relinquishment of the pension for one-quarter of a year, and if he does not object to the same within one month before the expiration of this time, each time for an additional quarter of a year.

VII. WAITING TERM.

ARTICLE 1278.

The duration of waiting term shall be—

1. In the case of invalidity pensions, if on the basis of the insurance obligation at least 100 contributions have been paid for the insured, 200 and in other cases 500 contributory weeks.
2. In the case of old-age pensions, 1,200 contributory weeks.

ARTICLE 1279.

PARAGRAPH 1. The contributions for voluntary insurance shall be included in the waiting term for invalidity pensions only if at least 100 contributions on the basis of the insurance obligation or of self-insurance have been paid.

PAR. 2. This shall not apply to the contributions which the insured person has voluntarily paid in the first four years after his branch of industry has become subject to the insurance.

VIII. EXPIRATION OF THE CLAIM.

ARTICLE 1280.

The claim shall cease if, during two years after the date of issue designated on the receipt card (art. 1416), less than 20 weekly contributions have been paid on the basis of the insurance obligation or of the continuation of the insurance.

ARTICLE 1281.

In the meaning of article 1280, the following periods are to be counted as weekly contributions:

1. Periods of military service, and of sickness (arts. 1393 and 1394).
2. The periods of employment not subject to the insurance during which the claimant or the deceased has received an invalidity or old-age pension from a sick fund or special institute of the kind designated in articles 1321, 1360, and 1375, or has received an accident pension equal to at least one-fifth of the full pension.

ARTICLE 1282.

In the case of self-insurance and its continuation, there must have been paid for the maintenance of the claim at least 40 contributions during the period designated in article 1280. This shall not apply if on the basis of the insurance obligation more than 60 contributions have been paid.

ARTICLE 1283.

PARAGRAPH 1. The claim shall again become effective if the insured person again takes up an employment subject to the insurance or if he renews the insurance status through voluntary payment of contributions and accordingly has completed a waiting term of 200 contributory weeks.

PAR. 2. If the insured person by again taking up the employment subject to the insurance, or by renewing the insurance status through voluntary payment of contributions, has completed the sixtieth year of life, then the claim shall only become effective if before the time when the claim expires he has made use of at least 1,000 contributory stamps.

PAR. 3. If the insured person has completed the fortieth year of life, then the claim shall become effective through voluntary payment of contributions, only if before the expiration of the claim he has used 500 contributory stamps, and accordingly has completed a waiting term of 500 contributory weeks.

IX. COMPUTATION OF INSURANCE BENEFITS.

ARTICLE 1284.

PARAGRAPH 1. The insurance benefits consist of a fixed imperial subsidy and of a share from the insurance institute.

PAR. 2. If the full pension amounts are not paid, then the shares of the Empire and of the insurance carrier shall be correspondingly reduced.

ARTICLE 1285.

The imperial subsidy shall consist of 50 marks [$11.90] annually for each invalidity pension, old-age pension, widow's pension, widower's pension, and 25 marks [$5.95] for each orphan's pension, single payments of 50 marks [$11.90] for each widow's money, and 16 2-3 marks [$3.97] for each orphan's settlement.

ARTICLE 1286.

The share of the insurance institute shall be based on the contributions and on the periods of military service and sickness which are considered as contributory weeks.

ARTICLE 1287.

In the case of invalidity pensions the insurance institute pays a basic amount and the supplementary increases; in the case of survivors' pensions, of widows' money and of orphans' settlements, it pays a part of the basic amount and of the supplementary increases, and in the case of old-age pensions a fixed annual amount.

ARTICLE 1288.

PARAGRAPH 1. The basic amount of the invalidity pension shall always be computed upon 500 contributory weeks. If less than this number are proved, then the number lacking shall be added from wage class I; if there are more than this number, then the contributions in excess which have been paid in the lower wage classes shall not be considered.

PAR. 2. For each contributory week there shall be credited the following:

	Pfennigs.	
In wage class I	12	[$0.029]
In wage class II	14	[.033]
In wage class III	16	[.038]
In wage class IV	18	[.043]
In wage class V	20	[.048]

ARTICLE 1289.

The supplementary increase of the invalidity pension shall for each contributory week amount to the following:

	Pfennigs.	
In wage class I	3	[$0.007]
In wage class II	6	[.014]
In wage class III	8	[.019]
In wage class IV	10	[.024]
In wage class V	12	[.029]

ARTICLE 1290.

For each contributory week, one contribution only shall be considered. If a larger number of contributory weeks has been fixed and the stamps in excess can not be determined, then the contributions of the lowest wage classes are to be stricken out until only the highest amount permissible remains.

ARTICLE 1291.

If the beneficiary of the invalidity pension has children under 15 years of age, then the invalidity pension shall be increased for each child by one-tenth, but not to exceed one and one-half times the amount of the invalidity pension.

ARTICLE 1292.

In the two cases stated herewith the share of the insurance institute equals the specified part of the basic amount and of the supplementary increases of the invalidity pension which the one providing the support at the time of his death had received or in the case of invalidity would have received. These cases are the following:

In the case of widows' pensions and widowers' pensions, three-tenths of the basic amount and of the increases;

In the case of orphans' pensions, for one orphan three-twentieths. for each additional orphan one-fortieth of the basic amount and of the increases.

ARTICLE 1293.

PARAGRAPH 1. The share of the insurance institute in old-age pensions amounts to the following:

	Marks.
In wage class I	60 [$14.28]
In wage class II	90 [21.42]
In wage class III	120 [28.56]
In wage class IV	150 [35.70]
In wage class V	180 [42.84]

PAR. 2. For contributions of different wage classes the corresponding average shall be granted. If more than 1,200 contributory weeks are proved, then the contributions in excess which have been made in the lowest wage class shall not be considered.

ARTICLE 1294.

PARAGRAPH 1. The pensions of the survivors may not together amount to more than one and one-half times the invalidity pension which the deceased at the time of death was receiving or in the case of invalidity would have received.

PAR. 2. Orphans' pensions alone may not together amount to more than this invalidity pension.

PAR. 3. If the pensions together add to a higher amount, then they shall be reduced in proportion to their size.

PAR. 4. Grandchildren have a claim only in so far as the highest amount allowable does not accrue to the children.

ARTICLE 1295.

Whenever one survivor ceases to receive a pension the pensions of the others are raised to the highest amount allowable.

ARTICLE 1296.

The widow's money shall be equal to 12 times the monthly amount of the widow's pension, and the orphan's settlement 8 times the monthly amount received as orphan's pension.

ARTICLE 1297.

The pension shall be paid in monthly instalments in advance and rounded upward to full sums of 5 pfennings [1.19 cents].

X. CESSATION OF THE BENEFITS.

ARTICLE 1298.

The widow's pension and the widower's pension shall cease in the case of remarriage.

ARTICLE 1299.

The orphan's pension shall cease as soon as the orphan has completed the fifteenth year of life.

ARTICLE 1300.

The claim to widow's money expires if the claim has not been filed within one year after the death of the husband.

ARTICLE 1301.

PARAGRAPH 1. For the month of death and the month during which the payment ceases the pension shall be paid in full, subject to articles 1295 and 1318.

PAR. 2. In cases where there is a part of a month, including in addition to the pension of the insured person that of the survivors, then they shall claim the higher amount.

ARTICLE 1302.

If at the death of the beneficiary the pension due has not been collected, then those entitled to receive the same are eligible in the order named: The husband or wife, the children, the father, the mother, the brothers and sisters, provided that at the time of his death they were living with the beneficiary in a common household.

ARTICLE 1303.

PARAGRAPH 1. If an insured person or a person entitled to receive a widow's pension and widower's pension, or widow's money, dies after he has filed his claim, then the following in the order named are entitled to continue the procedure and to receive the amounts due up to the date of death, namely, the husband or wife, the children, the father, the mother, the brothers and sisters, provided that at the time of his death they were living with the one entitled thereto in a common household.

PAR. 2. If the orphan entitled to an orphan's settlement dies before its payment, then the local insurance office at its own discretion shall specify to whom it is to be paid.

XI. WITHDRAWAL OF THE PENSION.

ARTICLE 1304.

If the beneficiary of an invalidity pension or widow's pension because of an important change in his condition is no longer an invalid in the meaning of articles 1255 and 1258, then the insurance institute shall withdraw the pension.

ARTICLE 1305.

If it is to be expected that a course of medical treatment would restore the earning capacity of the beneficiary of an invalidity pension, widow's pension, or widower's pension, then the insurance institute may inaugurate such treatment. In such cases articles 1270, 1271, and 1273 are correspondingly applicable. The relatives of the beneficiaries of widow's pensions or of widower's pensions shall receive no house money.

ARTICLE 1306.

If the pensioner without legal or other reasonable ground therefor declines to receive the course of medical treatment, and thereby hinders the removal of invalidity, or if he declines without reason to submit to a subsequent investigation or observation carried on in a hospital, then the pension may for the time be withdrawn either wholly or partly: *Provided*, That he has been notified of this consequence.

ARTICLE 1307.

Widowers' pensions and orphans' pensions which have been granted according to articles 1260 to 1262 shall be withdrawn by the insurance institute as soon as the indigence of the recipient has ceased.

ARTICLE 1308.

The decision which withdraws the pension shall become effective on the expiration of the month following its communication.

ARTICLE 1309.

If the invalidity pension or widows' pension has been granted anew or has been granted in the place of a sickness pension, or if an old-age pension is granted, then the time of the previous receipt of the pension by the insured person shall be included in the computation in the same manner as is done for a proved period of sickness (art. 1394, par. 2). During the time of the previous receipt of the pension the claim shall not expire.

ARTICLE 1310.

If it is proved that the insured person who was considered to have disappeared is still alive, then further payments of the pension shall be suspended. The insurance institute does not need to demand the return of the pension paid without right.

XII. SUSPENSION OF THE PENSION—CAPITAL SUM SETTLEMENTS.

ARTICLE 1311.

PARAGRAPH 1. The pension shall be suspended if it is received at the same time as an accident pension granted under the imperial laws herewith and if the two together exceed—

1. In the case of invalidity pensions and old-age pensions, seven and one-half times the basic amount of the invalidity pension;
2. In the case of widow's pensions and widower's pensions three and one-half times, in the case of orphans' pensions three times, the basic amount of the invalidity pensions which the one providing the support at the time of his death was receiving or in the case of invalidity would have received.

ARTICLE 1312.

PARAGRAPH 1. The pension shall be suspended as long as the beneficiary serves a prison term of more than one month or is placed in a workhouse or in a reformatory.

PAR. 2. If he has relatives in Germany whom he is supporting either wholly or principally from his earnings, then the invalidity pension or old-age pension shall be transferred to them.

ARTICLE 1313.

The pension shall be suspended—

1. As long as the person entitled thereto customarily remains in a foreign country of his own free will.
2. As long as a foreign beneficiary is expelled from the territory of the Empire on the basis of condemnation in a penal procedure. The same applies to a foreign beneficiary who has been expelled from the territory of a federal State because of condemnation in a penal procedure, as long as he does not stay in another federal State.

ARTICLE 1314.

The federal Council can suspend the stopping of a pension for foreign border territories or for such foreign States whose legislation guarantees a corresponding relief to Germans or their survivors.

ARTICLE 1315.

In the meaning of articles 1312 and 1313 German protectorates shall be considered as parts of German territory.

ARTICLE 1316.

In the case mentioned in article 1313, No. 1, a foreign beneficiary is to receive in settlement an amount equal to three times, or if the matter relates to an orphan's pension an amount equal to one and one-half times, the amount of his annual pension.

ARTICLE 1317.

With their consent, the same settlements may be granted to those foreigners who—

1. Except in the cases mentioned in articles 1313, No. 2, have left the territory of the Empire on the basis of a decree issued by a German authority.
2. Are entitled to the receipt of the pension on the basis of a decree issued by the Federal Council according to article 1314.

ARTICLE 1318.

If the prerequisites complied with entitle anyone to several pensions on the basis of the invalidity and survivors' insurance, then the smaller pensions shall be suspended beginning with the date of the combined right.

XIII. SPECIAL POWERS OF THE INSURANCE INSTITUTES.

ARTICLE 1319.

If, on new investigation, the insurance institute becomes convinced that pensions have been improperly denied, withdrawn, suspended, or have been determined at too small an amount, then the institute can make a new determination.

ARTICLE 1320.

The insurance institute need not demand the return of the pension sums which it has had to pay under the law before a decision of legal force has been made.

XIV. RELATION TO OTHER CLAIMS.

ARTICLE 1321.

PARAGRAPH 1. Factory funds, seamen's funds, and similar funds can reduce the invalidity, old age, and survivors' relief which they give their members insured under the imperial laws by not more than the value of the imperial benefits of this kind. They must then correspondingly reduce all contributions, or if the employers agree thereto at least those of the members of the fund. The same applies to miners' associations or miners' funds as regards invalidity and old age relief.

PAR. 2. Benefits provided under the rules of the constitution which the fund had granted before the decision of the competent authorities or before January 1, 1891, may not be reduced.

PAR. 3. The requisite orders for this purpose are to be introduced by the funds through amendments to the constitution; these must be approved by the competent authority. The authorities can themselves validly inaugurate amendments if the fund declines the application of the employers affected or of a majority of the members.

PAR. 4. The contributions need not be reduced if the savings made in the payment of these benefits are either necessary in order to cover the outstanding benefits of the fund, or are used according to the constitution and with the approval of the supervisory authority for the purpose of the welfare institutions for establishment officials, workmen, or their survivors.

PAR. 5. In the case of paragraph 3, sentence 2, the Federal Council shall specify the procedure before the imperial supervisory office for private insurance.

ARTICLE 1322.

PARAGRAPH 1. The benefits which miners' associations or miners' funds grant to the survivors of their members insured according to the imperial law shall be reduced by one-half of the value of the benefits of the same kind given under imperial law. The benefits including the amounts received according to the imperial law must exceed by not less than the amount of the imperial subsidy the benefits granted according to the constitution without the deduction. Corresponding to the reduction of the benefits all of the contributions must be reduced, or if the employers agree thereto at least the contributions of the members. In controversies regarding the extent of the reduction of the contributions the supervisory authority shall decide.

PAR. 2. The constitution may specify that the benefits and correspondingly the contributions may be reduced by a smaller amount or shall not be reduced at all.

PAR. 3. Benefits under the constitution which have been granted before the decision of the competent authorities or before this provision enters into force may not be reduced.

ARTICLE 1323.

Article 1281, No. 2, and articles 1321 and 1322 shall also be applicable to such funds required to provide invalidity, old age, and survivors' relief for which membership is compulsory under local laws.

ARTICLE 1324.

Pension claims may only be reduced by deducting from them the following:

Claims for reimbursement on account of accident pension and compensation paid in so far as the insurance institute has a claim thereon according to article 1522, paragraph 3, and article 1542;

Arrears of contributions;

Advances paid out;

Pension amounts paid without right;

Reimbursement of costs of procedure;

Fines imposed by the insurance institutes.

ARTICLE 1325.

Subject to the conditions of article 119, paragraph 2, widows' money and orphans' settlements may not be transferred, executed, pledged, or reduced.

SECTION THREE.—CARRIES OF THE INSURANCE.

A. INSURANCE INSTITUTES.

I. EXTERNAL FEATURES.

1. Establishment.

ARTICLE 1326.

PARAGRAPH 1. Insurance institutes shall be established for the territory of the federal State for the unions of communes or other parts of territory in accordance with the provisions of the State governments.

PAR. 2. For several federal States or parts of their territory as well as for their unions of communes a common insurance institute may be established.

PAR. 3. Insurance institutes which have been established under the law of June 22, 1899, shall retain their present status subject to the changes permissible under articles 1332 to 1337.

ARTICLE 1327.

The establishment of the insurance institute shall require the ap-

proval of the Federal Council. If the council refuses this approval, then after a hearing of the State governments affected, it can itself order the establishment of the institute.

ARTICLE 1328.

The State government shall specify the seat of insurance institute. If the insurance institute extends over several federal States, then the State governments affected shall specify the seat.

2. Local competence.

ARTICLE 1329.

The insurance institute shall include all persons employed in its district (arts. 153 to 156) who do not comply with their insurance obligation in the special institutes. If persons are employed in an establishment whose seat is located in the district of another insurance institute, then with the approval of the insurance institute affected they may also be insured in the institute of the seat of the establishment. The members of an establishment sick fund must, upon application of the employer, be insured at the seat of the establishment.

ARTICLE 1330.

If an establishment which has its seat in Germany employs temporarily persons in a foreign country, these persons must be insured in the insurance institute of the seat of the establishment.

ARTICLE 1331.

Subject to other provisions of the Federal Council, the place of employment of foreign vessels engaged in inland navigation shall be considered to be in the seat of that insurance institute in whose district the vessel first enters when crossing the boundary.

3. Changes in the districts.

ARTICLE 1332.

PARAGRAPH 1. The districts of the insurance institute may be changed if the committee (art. 1351) or a federal State affected applies therefor and the Federal Council approves. Before making the decision, the committees and State governments affected shall be heard. In the case of insurance institutes for the districts of unions of communes, their representatives may also apply for changes and must otherwise be heard before changes are made.

PAR. 2. With the approval of the Reichstag insurance institutes may be combined, divided, or dissolved.

ARTICLE 1333.

The district of the insurance institute changes automatically whenever the district of the administration is changed.

ARTICLE 1334.

If local districts separate themselves from an insurance institute, then the latter shall retain their assets and the existing obligations.

ARTICLE 1335.

If an insurance institute is dissolved, then the State governments affected may transfer to the institutes receiving the same, the assets with all the rights and duties, or it may approve the assumption of the same by another institute. Otherwise the assets shall be transferred to the unions of communes or federal States affected, and in the case of common institutes shall be divided pro rata.

ARTICLE 1336.

If in the case of the dissolution of a common insurance institute the unions of communes or the federal States can not agree as to the shares of the assets to be turned over to them, then the Federal

Council shall decide herein or in case only unions of communes of one federal State are affected, the highest administrative authority.

ARTICLE 1337.

In controversies between the insurance institutes in regard to the distribution of assets, the decision senate of the Imperial Insurance Office or of the State insurance office (art. 1382) shall decide, in the absence of an agreement to secure a decision from an arbitration court.

II. INTERNAL FEATURES.

1. Constitution.

ARTICLE 1338.

The committee shall decide upon the constitution. It must give the seat and district of the insurance institute and must specify the following:

1. Name of the insurance institute;
2. Number of representatives of the employers and of the insured persons in the directorate;
3. Subjects concerning which the co-operation of the representatives of the employers and insured persons in the directorate is required in discussion and in decisions;
4. Number of members, summoning, rights and duties of committees, appointment of its chairman, manner of making decisions, as well as representation as to third parties in the case of article 1354, paragraph 1, sentence 1;
5. Form of the declaration of the decisions of the directorate as well as its signature on behalf of the insurance institute, manner of making decisions of the directorate, and its representation as to third parties;
6. Representation of the institute as against the directorate;
7. Size of allowances according to article 21, paragraphs 2 and 3;
8. Drawing up preliminary estimates;
9. Drawing up and accepting the annual balance sheet in so far as the higher administrative authorities do not provide therefor;
10. Publication of the accounts;
11. Method of publishing notices;
12. Provisions as to the amendment of the constitution.

ARTICLE 1339.

The constitution must have the approval of the Imperial Insurance Office or of the State insurance office (art. 1382). If the approval is to be refused, then the decision senate shall decide thereon. The reasons for the refusal are to be stated. If the approval is refused, then the Federal Council shall decide upon appeal.

ARTICLE 1340.

If the refusal is finally refused, then within the time specified by the Imperial Insurance Office or the State insurance office the committee must decide upon a new constitution. If they reach no decision or if the new constitution is likewise not approved finally, then the Imperial Insurance Office or the State insurance office shall issue a constitution and decree the necessary steps for its execution at the cost of the institute.

ARTICLE 1341.

The constitution may be amended only with the approval of the Imperial Insurance Office or the State insurance office. If the approval is to be refused, then the decision senate shall decide thereon. The reasons for refusal are to be stated. If the approval is refused, the Federal Council shall decide upon appeal.

2. Directorate.

ARTICLE 1342.

The directorate shall administer the institute in so far as the law or constitution do not provide otherwise.

ARTICLE 1343.

The directorate shall have the powers of a public authority. One or more officials of the union of communes or of the federal State for which the insurance institute has been created shall conduct its business.

ARTICLE 1344.

PARAGRAPH 1. The unions of communes or highest administrative authority shall, according to the provisions of the State law, appoint the official members of the directorate and shall designate one of them as chairman.

PAR. 2. If the insurance institute extends over several unions of communes, then the highest administrative authority or the unions of communes designated by the latter shall take this action.

PAR. 3. If the insurance institute extends over several federal States, then the highest administrative authorities affected shall decide in regard to the appointment of the official members of the directorate.

ARTICLE 1345.

Article 33 shall not apply as regards the service relations of the official members of the directorate (art. 1344).

ARTICLE 1346.

PARAGRAPH 1. As nonofficial members, there shall belong to the directorate representatives of the employers and of the insured persons in equal numbers. They must reside in the district of the insurance institute.

PAR. 2. If the number of official members is greater than the number of nonofficial members, then in making the decisions that number of official members shall separate themselves as will arrange that the nonofficial members are in a majority. The constitution shall regulate the details hereto.

ARTICLE 1347.

The constitution can provide that still other salaried or unsalaried members shall belong to the directorate. The committee shall specify the conditions of appointment of the salaried members. Article 1346, paragraph 2, is here correspondingly applicable.

ARTICLE 1348.

In so far as the office, accounting and subordinate officials employed by the institute who are not substitutes are not State or communal officials according to State law, then the State government shall confer upon them the rights and duties of State or communal officials.

ARTICLE 1349.

The insurance institute shall provide for the salary, etc., of the officials and subordinates as well as their survivors.

ARTICLE 1350.

The directorate shall publish in the Reichsanzeiger and in the official gazette of the highest administrative authority the name, seat, and district of the insurance institute as well as the name of the chairman and, in addition, the changes therein.

3. Committee.

ARTICLE 1351.

PARAGRAPH 1. Each insurance institute shall have a committee. It

shall consist of one-half each of representatives of employers and of the insured persons and shall comprise at least 10 members.

PAR. 2. The latter shall be elected by the insurance representatives in the local insurance offices of the district of the insurance institute, and the representatives of the employers and of the insured persons shall be elected in separate elections.

PAR. 3. The representatives must reside in the district of the insurance institute.

ARTICLE 1352.

PARAGRAPH 1. The highest administrative authority shall issue election regulations and shall conduct the election through an authorized representative. If the insurance institute extends over several federal States, the highest authorities affected shall specify which of them shall conduct the same.

PAR. 2. For each representative at least two substitutes shall be elected. They shall take his place if he is unable to fulfill his duties, and, if he leaves the institute, they shall fill the office for the rest of the term in the order of their election.

PAR. 3. In controversies over elections, that authority shall decide which is to issue election regulations.

ARTICLE 1353.

The following matters are reserved to the committee:

1. Election of the nonofficial members of the directorate;
2. The determination of the preliminary estimates;
3. The acceptance of the annual balance sheet;
4. The amendment of the constitution.

ARTICLE 1354.

PARAGRAPH 1. In purchasing, selling, or mortgaging pieces of ground valued at more than 1,000 marks [$238], the institute shall be represented by the directorate and by the committee. In so far as matters relate to the purchase at compulsory sales of pieces of ground on which the insurance institute has made loans, the directorate alone shall be authorized to act as representative.

PAR. 2. The directorate must obtain the consent of the committee to form reinsurance federations.

ARTICLE 1355.

The preliminary estimates must be placed before the supervisory authority at least two weeks before the committee decides thereon. It must correct the estimate if it violates the law or constitution or endangers the solvency of the insurance institute as regards the legal obligation resting upon it. If the committee does not consider the objections, then the chairman of the directorate must appeal to the supervisory authority (art. 8). He is required to take this action if the supervisory authority demands the same. The decision senate decides thereon.

4. *Administration of the assets.*

ARTICLE 1356.

PARAGRAPH 1. The insurance institute must invest at least one-fourth of its assets in bonds of the Empire or of the federal States.

PAR. 2. The institute may invest not more than one-half of its assets otherwise than as specified in articles 26 and 27. For this purpose it shall secure the approval of the Imperial Insurance Office or of the State insurance office (art. 1382).

PAR. 3. If an insurance institute desires to invest more than one-quarter of its assets according to paragraph 2, it shall also secure thereto the approval of the communal union or of the highest administrative authority. If the district of the insurance institute ex-

tends over several States, then the approval of their highest administrative authorities is required.

PAR. 4. Such investment (pars. 2 and 3) is permissible only in securities and in other ways only for purposes of administration, to avoid the loss of assets or for undertakings which exclusively or principally accrue to the welfare of those subject to the insurance.

ARTICLE 1357.

Approval (art. 1356, pars. 2 and 3) is required in the following cases:

For the purchase of pieces of ground valued at more than 5,000 marks [$1,190];

For the erection of buildings valued at more than 10,000 marks [$2,380];

For the purchase of necessary articles of furniture, the total value of which is more than 5,000 marks [$1,190].

PAR. 2. Approval is not necessary for the purchase of pieces of ground in the cases mentioned in article 1354, paragraph 1, sentence 2.

ARTICLE 1358.

PARAGRAPH 1. The Imperial Insurance Office shall regulate the method and form of the accounting.

PAR. 2. The insurance institutes must make reports to the Imperial Insurance Office in regard to their business and finances according to the order of the latter. The Imperial Insurance Office shall each year draw up a report concerning the total financial operations of the preceding fiscal year and must lay the same before the Reichstag.

5. General provisions.

ARTICLE 1359.

PARAGRAPH 1. If the directorate or the committee has not been formed or if they refuse to carry on their business, then the chairman of the directorate himself or through authorized agents shall conduct the business at the cost of the insurance institute.

PAR. 2. In so far as the election of representatives does not take place or if they decline to perform their duties, the chairman of the local insurance office shall appoint them from among the eligible persons.

B. SPECIAL INSTITUTES.

1. General provisions.

ARTICLE 1360.

PARAGRAPH 1. Upon application of the competent authority, the Federal Council shall specify which institutes of the Empire, of a federal State, or of a union of communes, shall be admitted as special institutes and the date thereof.

PAR. 2. Upon application the Federal Council may also admit other special institutes.

PAR. 3. The special institutes must comply with the conditions specified in articles 1361 to 1366.

ARTICLE 1361.

The benefits of the special institutes must be of at least equal value with the legal benefits of the insurance institute.

ARTICLE 1362.

The contributions of the insured persons for the benefits of the imperial law may only exceed one-half of the legal amount (art. 1392) if it is necessary through the special manner of computation of the special institute in variance with article 1389. They may also not be higher than the contributions of the employers.

ARTICLE 1363.

In the administration of the special institutes insured persons must participate by representatives who have been designated in a secret election. Their number must be not less than that corresponding to the ratio of the contributions of the insured persons to those of the employers.

ARTICLE 1364.

In computing the waiting term and the pension for a claim according to the imperial law the period of contributions during membership in other special institutes and insurance institutes must be included.

ARTICLE 1365.

The procedure as regards the claims to invalidity, old age, and survivors' benefits, corresponding to the benefits of the imperial law, must be regulated according to the provisions of this law.

ARTICLE 1366.

If the special institute collects special or increased contributions for the benefits of the imperial law, then they may add these to their other benefits only in so far as they add to each pension of the imperial law at least the amount of the imperial subsidy.

ARTICLE 1367.

Membership in a special fund institution (*besondere Kasseneinrichtung*) admitted to insurance (arts. 8, 10, and 11 of the invalidity insurance law), or in a special institute, shall be considered as equal to insurance in an insurance institute.

ARTICLE 1368.

The special institutes receive the imperial subsidy to their benefits according to the imperial law.

ARTICLE 1369.

For the pension of a person insured in a special institute, that wage class for each week of membership after January 1, 1891, shall be used to which they would have belonged on the basis of their actual wages had they belonged to an insurance institute. If they were at the same time members of a sick fund or a miner's fund, then the wage class shall be arranged according to article 1246, paragraph 2, No. 1 or 3, and article 1247.

ARTICLE 1370.

If the special institute does not collect the contributions by means of stamps, then for persons leaving, it must certify the duration of their participation and their wage class as well as the duration of the periods of military service and sickness (arts. 1393 and 1394). The Federal Council may specify the form and contents of the certificate.

ARTICLE 1371.

Persons entitled to insurance in establishments for which a special institute exists may insure themselves only in the latter voluntarily, and in the case of leaving the employment can continue the insurance only in the special institute (art. 1243). Persons subject to insurance engaged in such establishments may, if they leave their employment without becoming subject to the insurance elsewhere, extend their insurance only in the special institute (art. 1244).

ARTICLE 1372.

In the case of a special institute, the following provisions are correspondingly applicable:

I. Provisions of Book One concerning—
   1. The accounting bureau (art. 103);
   2. Legal remedies (arts. 115 to 117);

3. Transferring, assigning, and execution of claims (art. 119);
4. Time limits (arts. 124 to 134);
5. Fees and stamp taxes (arts. 137 and 138).

II. Provisions of Book Four concerning—

6. Medical treatment (arts. 1296 to 1274);
7. Withdrawal of the invalidity, widows' and widowers' pensions (arts. 1304 to 1309);
8. Suspension of the pension and settlement in form of a capital sum (arts. 1311 to 1318);
9. New determination and demand for the return of the pension sums (arts. 1319 and 1320);
10. The relation of the claims of persons insured under the imperial law to the claims of miners' associations or miners' funds, factory funds, seamen's funds, and similar funds (arts. 1321 and 1322);
11. Deductions from claims (arts. 1324 and 1325) and transferring, execution, and assigning of widows' money and orphans' settlements (art. 1325);
12. Changes in the districts (arts. 1322 to 1337);
13. Obligation regarding the investment of at least one-fourth of the assets in the bonds of the Empire or of the federal States, and the reporting of accounting operations to the Imperial Insurance Office (art. 1356, par. 1, and art. 1358, par. 2);
14. Payments through the Post Office Department (arts. 1383 to 1386) in so far as the special institutes do not make payments directly;
15. The general cost and the special cost (arts. 1395 to 1399) and reinsurance federations (art. 1401);
16. Distributions and payments of the insurance benefits and the transferring of the sums to the post office (arts. 1403 to 1410);
17. Payment of the contributions for a previous period (arts. 1442 to 1444);
18. The decision in controversies in the case mentioned in article 1460;
19. The voluntary additional insurance (arts. 1472 to 1483).

III. The provisions of Book Five concerning—

20. The relations of the carriers of the sickness and of the accident insurance to the carriers of the invalidity and survivors' insurance (arts. 1518 to 1526);
21. The relations to other parties liable to pay benefits in so far as they are regulated in articles 1527, 1531, 1536 to 1543.

ARTICLE 1373.

The Empire or the union of communes affected is liable for the benefits if the special institute serves their establishments; otherwise the federal State of the seat of the establishment is liable. If several federal States participate, then they are liable in shares according to the number of insured persons who at the close of the last fiscal year were employed in the establishments. In like manner, the liability is regulated as concerning the distribution of assets (arts. 1334 to 1336).

ARTICLE 1374.

PARAGRAPH 1. For the determination of the amount which the special institute shall turn over to the general assets, the contributions shall be decisive (art. 1392). The benefits of the special in-

stitute shall be distributed only in so far as they correspond to the provisions of the imperial law.

PAR. 2. The imperial subsidy shall at the close of each fiscal year be paid over to the special institutes which make their payments themselves without the intervention of the post office.

2. Special institute of the navigation accident association.

ARTICLE 1375.

Upon the decision of the Federal Council, the navigation accident association may create on its own liability a special institute corresponding to the provisions of the imperial law. It must include the persons who are employed in the establishments of the association or in single kinds of these establishments and also the undertakers who at the same time are subject to the accident insurance and invalidity, and survivor's insurance. Both groups are insured in the special institute by authority of the law.

ARTICLE 1376.

If the insured persons are called on for contributions, then they are to participate in the administration in the same manner as employers.

ARTICLE 1377.

The employers' share in the contributions may on the average be not less than one-half of the legal contributions (art. 1392). The contributions of the insured persons may not be higher than those of the employers.

ARTICLE 1378.

PARAGRAPH 1. If the contributions of the insured persons are graded, then the pensions for the survivors are to be correspondingly graded.

PAR. 2. The waiting term may not be longer than that of the imperial law.

ARTICLE 1379.

The special institute of the navigation accident association shall have in other respects the same status as other special institutes. Articles 1355 to 1358 shall apply to it without restriction. It shall be subject to the supervision of the Imperial Insurance Office.

ARTICLE 1380.

PARAGRAPH 1. The creation of the special institute, its constitution, and the amendment thereof shall require the approval of the Federal Council. It shall make the decision after having heard the nonpermanent members of the Imperial Insurance Office, elected for the scope of the navigation insurance as representatives of the employers and the insured persons.

PAR. 2. The Federal Council shall specify the date on which the institution shall come into operation.

SECTION FOUR.—SUPERVISION.

ARTICLE 1381.

The Imperial Insurance Office shall conduct the supervision of the insurance institutes.

ARTICLE 1382.

If a State insurance office has been created for a federal State, then it shall conduct the supervision of the insurance institutes which do not extend beyond its territory.

SECTION FIVE.—PAYMENT OF THE BENEFITS—RAISING OF THE FUNDS.

I. PAYMENT THROUGH THE POST OFFICE DEPARTMENT.

ARTICLE 1383.

PARAGRAPH 1. The institute shall make payments upon notification

of the directorate through the Post Office Department and furthermore as a rule through that post office in whose district the payee resides. The payee shall be notified of the paying office by the directorate.

PAR. 2. If the payee removes his residence, he may make application to the directorate or to the post office of his old place of residence to have the payments changed to his new place of residence.

ARTICLE 1384.

Every person who is entitled to keep a public seal is authorized to give out and attest the requisite certificates in such payments.

ARTICLE 1385.

The highest postal authorities may collect from each insurance institute an advance sum. According to the choice of the insurance institute, it shall be transmitted either quarterly or monthly to the offices designated by the Post Office Department and may not be greater than that amount which the insurance institute will probably have to pay in the current fiscal year.

ARTICLE 1386.

The Imperial Insurance Office can specify in what manner payments are to be made to the payees who customarily reside in a foreign country.

II. RAISING OF THE FUNDS.

1. General provisions.

ARTICLE 1387.

PARAGRAPH 1. The Empire, the employers, and the insured persons shall provide the means for the insurance.

PAR. 2. The Empire shall pay subsidies for the pensions, widows' money, and orphan's settlements (art. 1285) actually paid in each year: the employers and the insured persons shall pay for each week of employment subject to insurance (contributory week) current contributions in equal parts (arts. 1432, 1439, 1458).

PAR. 3. The contributory week begins with Monday.

2. Size of the contributions.

ARTICLE 1388.

The weekly contributions shall be determined uniformly in advance by the Federal Council at the first for the period up to December 31, 1920, and then afterwards according to the result of the examination (art. 1391) and for a further period of 10 years. Changes shall require the approval of the Reichstag.

ARTICLE 1389.

For the determination of the size of the contributions, the annual average contribution shall be computed for the total number of insured persons. It shall be computed in such a manner that the value of all future contributions together with the assets shall cover that amount which is required according to the actuarial computation with the interest and compound interest to defray all future expenditures of the insurance institutes.

ARTICLE 1390.

PARAGRAPH 1. The average contributions shall be graded according to the wage classes, otherwise, however, shall be fixed exactly the same in weekly partial amounts for the insured persons of the same wage class.

PAR. 2. The grades shall be arranged according to that burden which results from the assumption that each wage class has a corresponding insurance status in the total number of insured persons and has the same risk, and that for these groups, the pensions, wid-

ow's money, and orphans' settlements will occur in the expected amount in the wage classes.

ARTICLE 1391.

PARAGRAPH 1. The accounting bureau of the Imperial Insurance Office shall investigate in advance whether the contribution will be sufficient.

PAR. 2. Deficits or surpluses must be equalized through new contributions.

ARTICLE 1392.

Until further action the following shall be collected as weekly contributions:

	Pfennigs.	
In wage class I	16	[$0.038]
In wage class II	24	[.057]
In wage class III	32	[.076]
In wage class IV	40	[.095]
In wage class V	48	[.114]

3. Periods of military service and of sickness.

ARTICLE 1393.

PARAGRAPH 1. Without any requirement that the contributions shall be paid, the following shall be added as contributory weeks of Wage Class II in which the insured person—

1. has been called into service in compliance with his military duties in times of peace, of mobilization, or of war;
2. has voluntarily rendered military service in times of mobilization or of war;
3. has been prevented from following his occupation because of an illness which rendered him incapable of work for the time being; the sickness must be certified.

PAR. 2. These weeks, however, shall only be included in the computation for those persons who were regularly employed in an occupation before that time and were not merely temporarily subject to the insurance.

ARTICLE 1394.

PARAGRAPH 1. The sickness shall not be included which the insured person has intentionally brought upon himself or has incurred by an action determined as a crime by the verdict of a criminal court or by culpable participation in brawls or disorderly conduct.

PAR. 2. If the sickness continues without interruption for more than one year, its further duration shall not be included.

PAR. 3. The period of convalescence shall be regarded the same as the sickness. The same shall apply for a period of eight weeks in case of inability to work caused by pregnancy or by regular childbirth without complications.

4. General cost—Special cost.

ARTICLE 1395.

The insurance institutes shall independently administer their income and other assets (general assets and special assets). They shall cover therefrom the general cost which all carriers of the invalidity and survivors insurance must jointly defray, and the special costs which fall upon the individual institutes.

ARTICLE 1396.

PARAGRAPH 1. The general cost consists of the following:

The basic amounts of the invalidity pensions and the subsidies for children's pensions (art. 1291);

The shares of the insurance institutes in the old-age pensions,

widows' pensions and widowers' pensions, orphans' pensions, widows' money and orphans' settlements;

The increases of the pensions resulting from the weeks of military service and weeks of sickness;

The cost of rounding off the pensions upwards.

PAR. 2. All other obligations form, subject to the reservations of article 1478, a special cost of the insurance institute.

ARTICLE 1397.

For covering the general cost, each insurance institute shall, beginning with January 1, 1912, set aside in its accounts 50 per cent. of the contributions as general assets. The institution shall credit the interest to the general assets as set aside in the books. The Federal Council shall specify the rate of interest on a uniform basis for the same periods of time as for contributions.

ARTICLE 1398.

PARAGRAPH 1. If the examination shows (art. 1391) that the general assets are not sufficient to cover the general cost, or are not necessary thereto, then the Federal Council shall specify for the coming period what shall be the share of the contributions which is to be set aside on the books for the balancing of the deficits or surpluses for the general assets.

PAR. 2. If the Federal Council increases this share, then the approval of the Reichstag is required.

ARTICLE 1399.

The existing assets of the insurance institute on hand at the time of the examination may be drawn on to cover the general cost only in so far as they have been set aside on the books for the general cost.

ARTICLE 1400.

PARAGRAPH 1. By joint agreement of the directorate and of the committee, the surplus of the special assets over the legal benefits may be applied for the economic welfare of the pensioners and the insured persons as well as for their relatives.

PAR. 2. The consent of the Federal Council is necessary in such cases. It may revoke the consent, if according to the advice of the accounting bureau, the special assets no longer show a sufficiently high surplus.

5. Reinsurance federations.

ARTICLE 1401.

Several insurance institutes may unite in order to carry either wholly or partly the burdens of the invalidity and survivors' insurance in common.

6. Liability for the obligations of the institute.

ARTICLE 1402.

In so far as the assets of the institute are not sufficient to cover its liabilities the union of communes for which the insurance institute has been created is liable to the creditors. If the union of communes is without assets or if the insurance institute has been created for a feleral State or parts of it, then the latter shall be liable. If the institute includes several federal States or unions of communes, then these shall be liable according to the number of their population at the time of the last census.

7. Distribution and refunding of the insurance benefits—Transferring amounts to the Post Office Department.

ARTICLE 1403.

PARAGRAPH 1. The accounting bureau of the Imperial Insurance

Office shall apportion pensions, widows' money, and orphans' settlements upon the Empire, upon the general assets, and upon the special assets.

PAR. 2. The increase rates of the invalidity pensions shall be at the cost of the institute to which contributions on this account have been paid. If the institute has determined benefits, parts of which are a cost on the special assets of other institutes, then the latter shall repay to it the amounts in the form of their capitalized value at the close of the fiscal year.

ARTICLE 1404.

The accounting bureau shall ascertain for each year and for each insurance institute the capitalized value of the pensions still current which it has certified for payment and the shares thereof which are a cost upon the Empire, upon the general assets and the special assets. The Federal Council shall regulate the computation of the capitalized value.

ARTICLE 1405.

Within eight weeks after the expiration of each fiscal year, the highest postal authorities shall communicate to the accounting bureau the amounts which have been paid in the past fiscal year upon authorization of the insurance institutes. According to the standard specified in article 1404, the pension advances shall be distributed upon the Empire, upon the general assets and upon the special assets. The accounting office shall further compute the share of the Empire, and of the general assets in connection with the widows' money and the orphans' settlements. The insurance institutes shall participate in the sum which is a charge on the general assets, each institute in proportion to the share of the total cost specified for its assets.

ARTICLE 1406.

PARAGRAPH 1. The accounting bureau shall notify the insurance institutes of the amounts which they have to repay from the share of their assets intended for the general cost and from their special assets. In such case, the accounting bureau shall balance the payments from the post-office advances (art. 1385) with the actual payments and shall deduct the capitalized value which according to article 1403 the individual institutes must repay to each other.

PAR. 2. The figures used as a basis for making the computations shall be stated. An appeal to the Imperial Insurance Office is permissible against the apportionment of the account.

PAR. 3. The size of the amounts which are a cost to the Empire is to be reported to the imperial chancellor.

ARTICLE 1407.

The accounting bureau shall notify the highest postal authorities what amounts must be repaid by the Empire and by the individual insurance institutes.

ARTICLE 1408.

Within two weeks after the receipt of the notification, the insurance institute must pay the amount to the Post Office Department from the means on hand. If such are not on hand, then the union of communes or the federal States shall advance the same, in case of joint insurance institutes, in proportion to the number of inhabitants at the last census.

ARTICLE 1409.

The amount of the advances to the post office (art. 1385) shall be determined for each insurance institute after the receipt of the communication from the highest postal authority (art. 1405) by the accounting bureau for the current fiscal year, and the insurance

institutes and the highest postal authorities shall be notified thereof. Up to that time, the partial amounts of the advances to the post office shall be paid further, for the time being, in the amount of the preceding year. They shall be balanced after determination of the new advance to the post office.

ARTICLE 1410.

If the claims of the Post Office Department are not promptly covered by the insurance institutes, then upon application of the Post Office Department the Imperial Insurance Office or the State insurance office (art. 1382) shall institute compulsory collection proceedings.

SECTION SIX.—PROCEDURE AS TO CONTRIBUTIONS.

I. STAMPS.

ARTICLE 1411.

PARAGRAPH 1. For the purpose of collecting the contributions, each insurance institute shall issue stamps containing the designation of the wage class and of the money value.

PAR. 2. The Imperial Insurance Office shall specify the distinguishing marks of the stamps as well as the periods of time for which they shall be issued.

PAR. 3. It may restrict the period of validity of the issued stamps. Within two years after the expiration of the period of validity, stamps which have become invalid may be exchanged at the sales offices.

ARTICLE 1412.

The stamps of each insurance institute shall be sold at the post offices of their district and at the special sales offices of the insurance institutes, at their face value.

II. RECEIPT CARDS.

ARTICLE 1413.

The contributions shall be paid by affixing the stamps on the receipt card of the insured person.

ARTICLE 1414.

The insured person shall have the receipt card made out for him and must produce it punctually for the affixing and cancellation of the stamps. The local police authorities may require him to do this under penalty of a fine up to 10 marks [$2.38]. If he has no receipt card or if he refuses to produce it, then the employer may procure the card and deduct the cost thereof at the next wage payment.

ARTICLE 1415.

The insured person may at his own cost at any time demand a new card in return for the old.

ARTICLE 1416.

PARAGRAPH 1. The receipt card shall contain the year and day of its issue and the contents of the provisions contained in articles 1424, 1425, and 1495. The Federal Council shall specify the other matters.

PAR. 2. The Federal Council may prescribe special cards for self-insurance and for its continuation (art. 1243), and may impose penalties for the unauthorized use of other cards.

ARTICLE 1417.

The cost of the cards shall be borne by the insurance institute of the district of issue if it is not procured for the account of the insured person (arts. 1414 and 1415).

ARTICLE 1418.

Each card shall contain space for at least 25 weekly stamps. The cards shall be numbered successively for each insured person. The

first card shall have at its head the name of the insurance institute in whose district the insured person is employed at the time of its issue, and each following card the name of the preceding (the original institute). If the name of the institute on a card issued later differs from that on the first card, then the name on the first card shall prevail.

ARTICLE 1419.

PARAGRAPH 1. The highest administrative authorities shall specify, subject to the reservation of article 1456, the offices which shall make out the cards and exchange the same (office of issue).

PAR. 2. The imperial chancellor shall specify the office of issue in the German protectorates.

PAR. 3. The office of issue shall compute when a card is returned, according to the stamps affixed, the contributory weeks for the individual wage classes. At the same time there must be given the duration of the military service proved and of the sickness certified, which have occurred during the time of the validity of the card. The office of issue shall certify to the owner of the card the totals.

PAR. 4. The cost for the forms of the certificates concerning the computation shall be borne by the insurance institute of the district of issue.

PAR. 5. The imperial chancellor shall specify who shall bear the cost for the receipt cards and for the forms of the certificates in the German protectorates.

ARTICLE 1420.

The cards must within two years after their date of issue be handed in for exchange. If this is not done, then in case of controversy the insured person must prove that the claim has been kept alive.

ARTICLE 1421.

PARAGRAPH 1. Receipt cards which have been lost, made unserviceable, or destroyed shall be replaced by new cards.

PAR. 2. Contributions which can be proved to have been made shall be transferred in certified form; the insurance institute affected shall be heard in advance if the card which has become unserviceable is not produced, and in each case shall be notified later.

ARTICLE 1422.

The insured person may appeal to the local insurance office against the contents of the certification (art. 1419, par. 3) and against the transfer or the refusal thereof (art. 1421, par. 2). The insurance institutes may also protest against the transfer (art. 1421, par. 2). The local insurance office shall decide finally.

ARTICLE 1423.

PARAGRAPH 1. The cards which have been handed in shall be transmitted to the insurance institute of the district. After verifying and correcting the entries on the outer side the institute shall forward them to the original institute (art. 1418).

PAR. 2. The original institute may transfer the contents of all cards of the same insured persons to a collective card and preserve the latter instead of the single cards.

PAR. 3. The Federal Council shall specify the details herewith. It shall also specify when and in what respects receipt cards are to be destroyed.

ARTICLE 1424.

The cards may contain only the statements prescribed by law and may carry no special marks; above all the card may not contain anything in regard to the conduct or services of the holder. Cards which violate this provision must be retained by each authority

receiving them and must be replaced by new cards. The contributions proved shall be transferred in certified form. The insurance institutes affected shall be notified hereof.

ARTICLE 1425.

PARAGRAPH 1. No one may retain a receipt card against the will of the owner. This shall not apply for the competent offices if they retain cards for the purpose of exchange, of correction, of computation, of transfer, or supervision of the contributions, or in a collection procedure.

PAR. 2. Whoever retains cards in violation of this provision is responsible to the owner for the damages arising therefrom. The local police authority shall collect the card and turn it over to the owner entitled thereto.

III. PAYMENT OF CONTRIBUTIONS THROUGH THE EMPLOYER—PROOF OF MILITARY SERVICE AND OF SICKNESS.

ARTICLE 1426.

PARAGRAPH 1. The employer who has employed the insured person through the contributory week shall pay the contribution for himself and for the insured person.

PAR. 2. If several employers employ the insured person during the week, then the first of them shall pay the whole amount. If neither he nor the insured person himself has paid the contribution (art. 1439), then the next employer must pay the contribution, but can demand reimbursement from the first employer. If the insured person is employed in occupations subject to insurance at the same time by several employers, then they shall all be liable as joint debtors.

ARTICLE 1427.

PARAGRAPH 1. If the actual time of work can not be determined, then the contribution is to be paid for the time which is approximately requisite for the work. In case of controversy, upon application of one party the local insurance office shall decide finally.

PAR. 2. The insurance institute may, with the approval of the Imperial Insurance Office or of the State insurance office (art. 1382), issue special regulations for the computation.

ARTICLE 1428.

PARAGRAPH 1. The employer shall pay the contributions at the time of the wage payment by affixing for the duration of the employment, stamps according to the wage class of the insured person on the receipt card. The cards shall be issued by the insurance institute of the place of employment.

PAR. 2. The employer must procure the cards at his own expense.

PAR. 3. If a payment of wages does not take place, the stamps are to be affixed at the latest when the employment ceases.

ARTICLE 1429.

In the case of insured persons who by contract are obliged to work for the employer for at least a quarter of a year, the employer may affix the stamps at another time, at the latest in the last week of each quarter. In every case the stamps are to be affixed at the end of the employment.

ARTICLE 1430.

The insurance institute may permit the employers to affix the stamps at another time.

ARTICLE 1431.

The stamps must be canceled. As the date of cancellation, the last day of that period shall be given to which the stamp applies. The

Federal Council shall specify the details in this connection, and shall impose penalties for contraventions.

ARTICLE 1432.

PARAGRAPH 1. The persons subject to the insurance must at the time of payment of wages permit the deduction from their cash wages of one-half of the contributions, and whoever is insured at a higher amount than the wage class specified in the law, without having agreed with the employer as to the insurance in a higher wage class, must also permit the deduction of the excess amount. Only in this way may the employers reimburse themselves for the share of the contribution of the insured persons.

PAR. 2. The deductions are to be distributed evenly upon the wage periods.

ARTICLE 1433.

If deductions are not made at the time of a wage payment, then they may be made only at the time of the next payment, unless the employer through no fault of his own at a later time pays valid contributions (art. 1442).

ARTICLE 1434.

Payments on account shall not be considered as wage payments in the meaning of articles 1428, 1432, and 1433. In every case, however the stamps are to be affixed in the last week of each quarter.

ARTICLE 1435.

PARAGRAPH 1. If they pay the contributions in stamps, the employers against whom an order of the local insurance office, according to article 398, has been issued may make wage deductions only for the period for which they have already paid arrears of contributions and can prove the same.

PAR. 2. Where a collection procedure is in existence, the order under article 398 shall also be applicable for the contributions of the invalidity and survivors' insurance. The insured persons must in such cases themselves pay their share of the contribution on the pay days.

ARTICLE 1436.

The Federal Council shall regulate the collection of the contributions for persons subject to insurance according to articles 1228 and 1229.

ARTICLE 1437.

The highest administrative authorities may specify how the share of the contribution of persons subject to insurance shall be deducted from their pay if the latter consists only of payments in kind or is to be paid by third persons.

ARTICLE 1438.

PARAGRAPH 1. Military service which has been rendered shall be proved by the military papers.

PAR. 2. Weeks of sickness shall be proved by certificates. After the expiration of the sick benefits or of the relief during the convalescence the directorate of the sick fund, of the substitute fund, of the mutual insurance association, or of the aid society created according to provisions of State law shall make out the certificate. Otherwise the directorate of the commune shall perform this act. The local insurance office may require the directorate of the fund or of the mutual insurance association to fulfill this obligation under penalty of fines up to 100 marks [$23.80].

PAR. 3. For persons employed in Imperial and State establishments the service authority in charge may make out the certificates. In such cases the sick fund is to be released by the local insurance office from the duty of filling out the certificates.

IV. PAYMENT OF THE CONTRIBUTIONS BY THE INSURED PERSONS.

ARTICLE 1439.

PARAGRAPH 1. The insured person himself may also pay the full contributions. The employer must reimburse him for one-half thereof, and this shall be one-half of the legal contribution, unless an agreement has been made as to insurance in a higher wage class.

PAR. 2. A claim shall exist only if the stamps have been canceled according to regulations. The claim must be raised not later than at the time of the second wage payment following, unless the insured person through no fault of his own has paid effective contributions at a later time.

ARTICLE 1440.

PARAGRAPH 1. Subject to the provisions of article 1371, persons voluntarily insured shall make use of the stamps of the insurance institute in whose district they are employed or in which they remain if unemployed. The choice of the wage class shall be made by themselves.

PAR. 2. They may continue the insurance while in a foreign country, and in such cases make use of the stamps of any insurance institute which they prefer.

PAR. 3. Stamps of an insurance institute may not be used for the extension of the insurance in a special institute (art. 1371).

ARTICLE 1441.

Whoever insures himself voluntarily during an employment for compensation but not paid in cash, or in case of a temporary employment (arts. 1227 and 1232), shall have a claim to the share of the contribution of the employer. The latter may decline to refund more than he is legally required (arts. 1245 to 1247).

V. CONTRIBUTIONS NOT VALID.

ARTICLE 1442.

PARAGRAPH 1. Compulsory contributions are not valid if they are paid after the expiration of two years, but in case the payment of contributions has not been made without the fault of the insured person, then after the expiration of four years after the date when they are due.

PAR. 2. A fault of the insured person shall not exist if the employer has retained the receipt card and has not exchanged it in compliance with the regulations at the proper time.

ARTICLE 1443.

Voluntary contributions and contributions in excess of the legal wage class may not be paid for a previous period for more than one year, nor may they be paid after the beginning of permanent or of temporary invalidity, or for the continuation of the invalidity.

ARTICLE 1444.

PARAGRAPH 1. If the contributions are later on paid within a suitable time, then they shall have the same status as the payment of contributions in the meaning of articles 1442 and 1443, in the following cases:

1. When a warning has been given to an employer by the competent office;
2. When the employer or the insured person has declared to such an office that he is ready to pay arrears.

PAR. 2. There shall not be included in the periods specified in articles 1442 and 1443 those periods of time in which a controversy regarding contributions (arts. 1459 to 1461), or a procedure relating to a claim, to an invalidity pension, old-age pension, widow's pension, or widower's pension, is in question.

PAR. 3. These facts (pars. 1 and 2) shall also interrupt the lapsing of arrears of contributions (art. 29).

ARTICLE 1445.

PARAGRAPH 1. If the stamps on a receipt card properly made out and handed in for exchange at the proper time have been employed according to regulations, then it shall be assumed that an insurance status existed during the contributory weeks covered thereby. This shall not apply if the stamps have been affixed later than one month after the date on which the contributions are due or for the calendar year have been affixed in a larger number than the year contains contributory weeks.

PAR. 2. The insured person may demand from the insurance institute the determination of the validity of the stamps which have been used. If the insurance institute acknowledges the insurance obligation or the right to insurance, then the claim for a pension may not be disallowed on the ground that the stamps have been used without right.

Par. 3. After the expiration of 10 years after the computation of the receipt cards, the legal validity of the stamps certified in the computation may no longer be contested, unless the insured person or his representatives, or a person required to provide relief for him, has brought about the use of the stamps with a fraudulent intent.

VI. CONTRIBUTIONS PAID IN ERROR.

ARTICLE 1446.

PARAGRAPH 1. Contributions which have been paid under a mistaken assumption that an insurance obligation exists, and the return of which has not been demanded, shall be considered as paid for self-insurance or continuation of insurance if a right thereto existed at the time of payment.

PAR. 2. Within 10 years after their payment, the insured person may demand the return of the contributions, if a valid pension has not already been granted to him and if the use of the stamps has not been made with fraudulent intent.

PAR. 3. The employer may no longer demand the return of the contributions if the value of his share has been returned to him by the insured person or if two years have elapsed since the payment.

VII. COLLECTING THE CONTRIBUTIONS.

ARTICLE 1447.

PARAGRAPH 1. The highest administrative authority may, after a hearing of the insurance institute, order that the sick funds, miners' associations, or miners' funds, or other offices designated by it or local collecting offices of the insurance institute, shall collect the contributions of all or of separate groups of persons subject to the insurance for the account of the institute. The authority may in such cases regulate the duty of the insured person to report himself.

PAR. 2. With the approval of the highest administrative authority, the insurance institute may through its constitution itself order this procedure; in addition a commune or a union of communes, with the approval of the higher administrative authority, may after a hearing of the institute order this to be done through a local regulation.

ARTICLE 1448.

If local collecting offices are to be instituted, then the institute must create them at their own cost and in the places specified by the higher administrative authority.

ARTICLE 1449.

The insurance institute must grant a collection fee to the offices of collection; in case the parties affected can not agree, the fee shall be fixed by the highest administrative authority.

ARTICLE 1450.

With the approval of the sick fund the highest administrative authority can also permit the collection of the contributions for the sick fund by the local collecting offices. The fund shall assume a part of the cost. The details in this connection shall be specified by the highest administrative authority after a hearing of the insurance institutes and sick funds affected.

ARTICLE 1451.

The highest administrative authority shall regulate the powers of the insurance institute as against the offices of collection not created by itself.

ARTICLE 1452.

In case of voluntary insurance the collection of the contributions may not be prescribed.

ARTICLE 1453.

PARAGRAPH 1. The highest administrative authority may regulate the details as to the procedure in collecting, using, and accounting of the contributions.

PAR. 2. As a rule the contributions shall be collected at the same time with those of the sick funds on the date when they are due. In the case of insured persons from whom the sick fund collects no contributions, the office of collection shall specify the date. Stamps shall be affixed on the receipt card for the contributions collected. Article 1414 is here correspondingly applicable.

ARTICLE 1454.

PARAGRAPH 1. Even in cases where the procedure of collection has been specified, the highest administrative authority or the directorate of the insurance office may permit individual employers themselves to pay the contributions by the use of stamps, according to articles 1426 to 1430. These authorizations are to be communicated to the office of collection.

PAR. 2. Authorities of the Empire, of the States, and of the communes may also exclude themselves from the collection procedure. This shall be communicated to the insurance institute and the office of collection.

ARTICLE 1455.

PARAGRAPH 1. The highest administrative authority may order the following:

1. That sick funds, miners' associations, miners' funds, or local collection offices of insurance institutes shall make out and exchange the receipt cards;
2. That temporary employé (art. 441) shall pay their half of the contribution directly, while the other half shall be paid by the union of communes or the commune, and that the employer shall repay the same; also the corresponding application of articles 453 and following may be ordered.

PAR. 2. For this purpose the insurance institute shall grant a special allowance to the offices designated, and the highest administrative authority shall fix the amount thereof.

ARTICLE 1456.

PARAGRAPH 1. The procedure of collection may be prescribed for the members of a sick fund by its constitution, for the members of the sick fund of an imperial or a State establishment by the compe-

tent service authorities, and the making out and exchange of receipt cards may be transferred to the fund.

PAR. 2. Article 1449 is here not applicable.

ARTICLE 1457.

PARAGRAPH 1. As long as a person is insured in the district of an office of collection, he may deposit his receipt card therein.

PAR. 2. The highest administrative authority, in agreement with the insurance institute, may require the deposit. The local insurance office may require the insured persons to follow this course under penalty of fine up to 10 marks [$2.38].

VIII. ROUNDING OFF THE AMOUNTS.

ARTICLE 1458.

If the reckoning between the employer and insured persons results in a fraction of a pfennig, then the share of the contribution of the employer shall be rounded off to the full pfennig upward and that of the insured person to the full pfennig downward.

IX. CONTROVERSIES AS TO CONTRIBUTIONS.

ARTICLE 1459.

PARAGRAPH 1. In controversies in regard to the payment of contributions, if such controversy is not first raised at the determination of a pension, the local insurance office shall decide, and upon appeal the superior insurance office shall decide finally. These authorities must follow the principles of the officially published decisions of the Imperial Insurance Office.

PAR. 2. If the matter relates to the interpretation of legal provisions of fundamental importance which have not yet been passed upon, then the superior insurance office shall transmit the matter, together with a statement of the reasons for its own views to the Imperial Insurance Office: *Provided*, That the appellant has applied therefor within the period of appeal. Other persons affected may also make this appeal within one week after they have been given an opportunity to express their opinions. In these cases the Imperial Insurance Office shall decide instead of the superior insurance office.

ARTICLE 1460.

If the controversy relates to the question as to which of several insurance institutes is to receive the contributions for specified persons, then upon application the Imperial Insurance Office or the State insurance office shall decide (art. 1382).

ARTICLE 1461.

All other controversies between employers and workmen in regard to computation and accounting, payment, and reimbursement of contributions (art. 1426, par. 2, arts. 1432 to 1435, 1437, 1439, and 1441) shall be decided finally by the local insurance office.

ARTICLE 1462.

PARAGRAPH 1. If the controversy has been finally decided, then the local insurance office shall take care that contributions not collected in sufficient amounts shall be covered through stamps at a later time. If too many stamps have been collected and the return of them can still be demanded (art. 1446), the local insurance office shall, upon application, secure their return from the insurance institute and repay them to the parties affected. The stamps shall be destroyed and the computation corrected.

PAR. 2. Stamps which are destroyed because they originated from an insurance institute which was not competent must be replaced by

those of the competent institute. Their amount shall be demanded from the institute of issue and paid over to the parties affected.

ARTICLE 1463.

Instead of destroying the stamps, the local insurance office may call in the receipt card and have the valid contributions transferred to a newly made out card.

ARTICLE 1464.

If the obligation or the right of insurance is finally denied, then, upon their application, the parties affected shall have returned to them the contributions not yet lapsed. Article 1446 shall not be affected hereby.

X. SUPERVISION.

ARTICLE 1465.

The insurance institute shall supervise the punctual and complete payment of the contributions. The local insurance office may in this connection assist the insurance institute with its agreement and with an understanding as to the costs.

ARTICLE 1466.

PARAGRAPH 1. The employer must give to the local insurance office and to the directorate of the institute itself, as well as to the authorized agents of both, information in regard to the number of employees, their earnings, and duration of their employment. The employers must produce the books and lists from which these facts can be ascertained, during the time of operation and in their place of business. The insured persons also must give information in regard to the place and duration of their employment, as well as of their earnings.

PAR. 2. Both groups are obliged to hand over to the designated officials and agents, upon demand, their receipt cards and certificates (art. 1419, par. 3) for verification and correction, and a receipt must be given therefor.

PAR. 3. The local insurance office may compel the employers and the insured persons to comply with their duties (pars. 1 and 2), under fines up to 150 marks [$35.70].

ARTICLE 1467.

With the approval of the Imperial Insurance Office, or of the State insurance office (art. 1382), the insurance institute may issue supervisory regulations. These authorities may order the issuance of such regulations, and if such order is not complied with, issue the order themselves. The directorate of the institute may require employers and insured persons to comply punctually with such regulations, under fines up to 150 marks [$35.70].

ARTICLE 1468.

PARAGRAPH 1. If cash expenditures occur on account of the supervision, then they may be imposed upon the employer if he has caused them through neglect of duty. Upon appeal, the superior insurance office shall decide finally.

PAR. 2. Such costs shall be collected in the same manner as communal taxes.

ARTICLE 1469.

After agreement with the parties interested, or at the close of a procedure in settlement of a controversy, the receipt cards shall be corrected by the supervisory authorities, by the duly authorized agents, or by the offices of collection.

ARTICLE 1470.

With their consent and with an agreement as to the costs, the local insurance office may assist the insurance institutes in regard to

the supervision of pensioners. The decision committee shall make the decision in this connection. If the committee declines, then, on appeal, the superior insurance office shall decide finally.

XI. SPECIAL PROVISIONS.

ARTICLE 1471.

The Federal Council may replace the provisions of this section in regard to the crews of foreign ships in inland waters by other provisions.

SECTION SEVEN.—VOLUNTARY ADDITIONAL INSURANCE.

ARTICLE 1472.

PARAGRAPH 1. Every person subject to the insurance and every person entitled to insurance may at any time and in any number affix supplementary stamps of any insurance institute on their receipt cards. They shall thereby obtain a claim for a supplementary pension in case of invalidity.

PAR. 2. The value of the supplementary stamp shall be 1 mark [23.8 cents].

PAR. 3. The claims procured on the basis of supplementary stamps may not lapse.

ARTICLE 1473.

PARAGRAPH 1. For every supplementary stamp which the insured person affixes he shall receive as an annual supplementary pension as many times 2 pfennigs [0.48 cents] as at the time of the beginning of the invalidity, years have expired since the use of the supplementary stamp.

PAR. 2. The years shall be counted from the calendar year in which the receipt card has been counted up to the year in which the invalidity began. The value of the supplementary stamps which are not included thereby shall be reimbursed to the insured person or to his survivors (art. 1302).

ARTICLE 1474.

PARAGRAPH 1. The supplementary pension shall be paid as long as the invalidity continues (art. 1255). The decision which withdraws the pension shall become effective at the expiration of the month following the communication thereof.

PAR. 2. Article 1254 shall also apply to supplementary pensions.

ARTICLE 1475.

The supplementary pension shall always be paid in full sums monthly in advance, each time rounded off upward in sums of 5 pfennigs [1.19 cents], and shall be paid either together with the invalidity pension or separately.

ARTICLE 1476.

PARAGRAPH 1. If the supplementary pension does not amount to more than 60 marks [$14.28] annually, then upon application a single lump sum payment equal to its capitalized value shall be paid.

PAR. 2. If the beneficiaries give up their residence in Germany, then they may be paid off with the capitalized value of the supplementary pension.

PAR. 3. The computation of the capitalized value shall be regulated by the Federal Council.

ARTICLE 1477.

Articles 1383 to 1386 shall be applicable as regards the payment of the supplementary pensions and of the single lump-sum settlements.

ARTICLE 1478.

PARAGRAPH 1. The receipts from the supplementary stamps shall

be added to the general assets. The expenditures for supplementary pensions form a part of the general cost.

PAR. 2. The general assets shall bear the liability for the obligations arising out of supplementary insurance.

ARTICLE 1479.

In order to ascertain the obligations which arise out of the supplementary insurance, the insurance institute shall draw up special summaries from the incoming receipt cards, and these summaries shall show the number and the kind of supplementary stamps used and shall serve as the basis for the accounting bureau.

ARTICLE 1480.

Every 10 years (art. 1388) the accounting bureau of the Imperial Insurance Office shall ascertain how high the rate of the pension may be (art. 1473, par. 1). The Federal Council shall determine it accordingly for every 10 years.

ARTICLE 1481.

The benefits for a supplementary pension shall be distributed and paid in the same manner as other benefits (arts. 1403 to 1410).

ARTICLE 1482.

PARAGRAPH 1. Each insurance office shall issue supplementary stamps.

PAR. 2. The Imperial Insurance Office shall specify the distinguishing marks of the stamps. It may also restrict the duration of their validity. The Federal Council shall specify the details in regard to their cancellation.

ARTICLE 1483.

The regulations which apply for the determination of invalidity and survivors' pensions shall apply in a corresponding manner in the procedure for the determination of supplementary pensions.

SECTION EIGHT.—FINAL PROVISIONS AND PENAL PROVISIONS.

I. SICK FUNDS.

ARTICLE 1484.

The provisions of this book as regards sick funds (art. 225) shall also be applicable to miners' sick funds.

II. SPECIAL PROVISIONS FOR SEAMEN.

ARTICLE 1485.

Seamen (art. 1046, par. 1) are to be insured in that insurance institute in whose district is located the home port of the vessel.

ARTICLE 1486.

PARAGRAPH 1. The shipowners may pay the contributions for seamen according to the size of the crew of the single vessels as estimated for the accident insurance. The insurance institute shall specify the details in this connection.

PAR. 2. The Federal Council may order a different procedure for the payment of contributions than that provided in this book.

III. PENAL PROVISIONS.

ARTICLE 1487.

If employers make entries in the reports or statements which they have to make under the provisions of this law or the regulations of the insurance institute, whose incorrectness they knew or under the circumstances must have known, or if they fail to make either wholly or in part the prescribed entries, then the directorate of the institute may impose upon them fines up to 560 marks [$119].

ARTICLE 1488.

PARAGRAPH 1. If the employers neglect to use in due time the

correct stamps for their employees subject to the insurance or to transmit the contributions, then the directorate of the institute may impose upon them fines up to 300 marks [$71.40]. Independently of the fine and the collection of the arrears, the directorate may require from persons so penalized the additional payment of 100 up to 200 per cent of these arrears. The amount shall be collected in the same manner as communal taxes.

PAR. 2. The same shall apply if employers who have in their service foreign-insured persons do not comply with their duties as specified in article 1233.

PAR. 3. If the employer contests his obligation to pay contributions, then it shall be decided according to article 1459.

ARTICLE 1489.

Whoever, contrary to his obligation, does not give notice of the employment of persons subject to the insurance (art. 1447), may be punished by the local insurance office with fines up to 300 marks [$71.40] in case the action has been intentional, and in case the action has been one of negligence with fines up to 100 marks [$23.80].

ARTICLE 1490.

The following persons shall be punished with fines up to 300 marks [$71.40], or with arrest, provided that under other legal provisions more severe penalties are not imposed:

1. Employers who purposely deduct from the wages of their employés higher contributions than this law permits;
2. Employers who purposely act contrary to the provisions of article 1435, paragraph 1;
3. Employers who make deductions from wages in the case mentioned in article 1435, paragraph 2, if the local insurance office has issued an order as described in article 398;
4. Employés who purposely deduct more than this law permits;
5. Persons who contrary to law withhold a receipt card from one entitled thereto.

ARTICLE 1491.

Insured persons shall be punished with fines up to 300 marks [$71.40], or with arrest, unless severer penalties are provided according to other legal provisions, if they intentionally demand from employers on account of self-paid contributions more than is permissible, or demand the full share of the contribution from several employers for the same week, or do not use the amount collected for the payment of the contributions, or collect shares of contributions, when they did not pay the full contributions.

ARTICLE 1492.

PARAGRAPH 1. Employers shall be punished with confinement in jail if they intentionally do not use for the insurance, shares of contributions which they have deducted from the wages of their employés or which they have received from the latter.

PAR. 2. In addition, penalties up to 3,000 marks [$714] and the loss of civic rights can also be imposed.

PAR. 3. If mitigating circumstances are present then the fine alone may be imposed.

ARTICLE 1493.

The same penal provisions are applicable in the following cases:

1. To the members of the directorate if the employer is a stock company, a mutual insurance association, a registered co-operative society, a guild, or other legal person.
2. To the business directors, if the employer is an association with limited liability.

3. If another type of business corporation is the employer, to all partners personally liable in so far as they are not excluded from the representation.
4. To the legal representatives of employers not legally competent to transact business or partially so, as well as to the liquidators of a business corporation, a mutual insurance association, a registered co-operative society, a guild, or any other legal person.

ARTICLE 1494.

PARAGRAPH 1. The employer may transfer the duties imposed upon him by this law or by the constitution to the directors of establishments, the supervisory personnel, or other employés of his establishment.

PAR. 2. If such representatives act contrary to those provisions which impose penalties upon the employer, the penalty shall be imposed upon them. In addition to them, the employer is liable to a penalty if—

1. The contravention has occurred with his knowledge.
2. He has not observed the care required customarily in the selection and supervision of his representatives. In this case no other penalty than the fine may be imposed upon the employer.

PAR. 3. The payment of the additional 100 to 200 per cent. of the arrears of contributions (art. 1488) can also be imposed upon the representative. In addition to him, the employer shall be liable for this amount if he is punished under the provisions of paragraph 2 above.

ARTICLE 1495.

PARAGRAPH 1. Whoever places upon a receipt card either forbidden entries or special marks may be punished by the local insurance office with fines up to 20 marks [$4.76].

PAR. 2. The same penalty may be imposed upon the person who falsely fills out the blank spaces (*Vordruck*) on the receipt card or whoever fraudulently alters the words or figures entered in filling out the blank spaces or who knowingly uses such a card.

PAR. 3. Whoever makes entries, marks, or falsifications, with the intention of making known the holder to employers, shall be punished with fines up to 2,000 marks [$476], or with confinement in jail up to six months. In case of mitigating circumstances arrest may be imposed instead of confinement in jail.

PAR. 4. A prosecution for forgery of documents (arts. 267 and 268, of the Imperial Penal Code) shall only be inaugurated against persons who have made false entries with the purpose of providing for themselves or for others a pecuniary benefit, or with the purpose of causing damage to others.

ARTICLE 1496.

Penalties of imprisonment for not less than three months and in addition loss of civic rights shall be imposed upon the one who makes counterfeit stamps or alters stamps with the purpose of using them as genuine, or whoever with the same purpose provides himself with counterfeit stamps, or uses or offers for sale or brings them into use.

ARTICLE 1497.

The same penalty (art. 1496) shall be imposed upon whoever makes use of stamps which have already been used, or procures the same for use again, or offers them for sale, or brings them into use. In case of mitigating circumstances a fine up to 300 marks [$71.40] or arrest may be imposed.

ARTICLE 1498.

In the cases mentioned in articles 1496 and 1497 steps must be taken for the seizing of the stamps, even if they do not belong to the person condemned. The same must also occur if no specified person can be prosecuted or condemned.

ARTICLE 1499.

PARAGRAPH 1. Whoever manufactures without the written authority of an insurance institute or of another authority the stamp, seals, cuts, plates, or other forms which can be used in the manufacture of stamps, or impressions of such forms, or hands the same over to persons other than the insurance institute or the authorities, shall be punished with a fine up to 150 marks [$35.70] or with arrest.

PAR. 2. In addition to the fine or arrest, the seizing of the stamps, seals, cuts, plates, or other forms may be ordered, even if they do not belong to the person condemned.

ARTICLE 1500.

On appeal against the penalties imposed by the directorate of the institutes and the local insurance offices the superior insurance office (decision chamber) shall decide finally.

BOOK FIVE.—RELATIONS OF THE INSURANCE CARRIERS TO EACH OTHER AND TO OTHER BODIES.

SECTION ONE.—RELATIONS OF THE INSURANCE CARRIERS TO EACH OTHER.

I. SICKNESS INSURANCE AND ACCIDENT INSURANCE.

ARTICLE 1501.

PARAGRAPH 1. The obligation of the sick funds (art. 225) to benefits shall not be affected because a carrier of the imperial accident insurance is obligated to compensate damages.

PAR. 2. If according to its obligations under the law or constitution a sick fund grants benefits on account of an accident for a period during which the beneficiary because of the accident had also a claim for accident compensation or still has such claim, then the fund may claim the accident compensation as reimbursement, though for not more than the amount of this claim for compensation, and only within the limits specified in articles 1502 to 1507.

PAR. 3. The sick fund may claim reimbursement from the funeral benefit and accident pension only in so far as this is expressly authorized.

ARTICLE 1502.

Funeral benefits which the sick fund must pay to a beneficiary under article 203, are to be reimbursed from the funeral benefits which the carrier of the accident insurance has to pay such person.

ARTICLE 1503.

PARAGRAPH 1. For sick care three-eighths of that basic wage are to be reimbursed on which the pecuniary sick benefit of the beneficiary is based.

PAR. 2. In case of care in a hospital, the same rule shall be followed as for sick care. For maintenance in a hospital one-half of the basic wage shall be used; for this amount reimbursement may be claimed only from the accident pension.

ARTICLE 1504.

In the case of special apparatus, etc., which is to be granted in accordance with article 187, number 3, reimbursement is to be made up to the amount of the expenditure.

ARTICLE 1505.

For benefits other than funeral benefits, sick care, apparatus, etc. (art. 1502 to 1504), reimbursement may be claimed only from the accident pension.

ARTICLE 1506.

PARAGRAPH 1. In so far as reimbursement for benefits of the sick funds may be claimed out of the accident pension, the claim shall be valid only up to one-half of the amount of the pension which is paid during the time for which the claims to sick benefits and pensions coincide.

PAR. 2. If during this time complete maintenance in an institution has been granted to the sick person, and according to the provisions of this book reimbursement is to be made out of the accident pension, then for the duration of such maintenance a claim is valid up to the full amount of the pension. This shall be correspondingly applicable if the carrier of the accident insurance has granted complete maintenance in an institution to a sick person (art. 607).

PAR. 3. In order to determine the extent of the care in a medical institution which the carrier of the accident insurance has granted, on which a claim for reimbursement of the sick fund for its benefits is valid, maintenance in a medical institution shall be computed as equal in value to the full pension.

ARTICLE 1507.

For the satisfaction of claims for reimbursement by the sick fund, pension amounts in arrears and such amounts for the period of entire maintenance in an institution (art. 1506, par. 2, sentence 1), may be drawn on, up to their full amount, other pension amounts only up to one-half of their amount.

ARTICLE 1508.

PARAGRAPH 1. A claim for reimbursement (arts. 1501 to 1507) is excluded, if it has not been filed at the latest within three months after the end of the benefit payments with the carrier of the accident insurance.

PAR. 2. If, without any fault on its part, the sick fund has secured knowledge of the fact only after the expiration of this time, that the prerequisites for a claim for reimbursement are present, then it may still file the claim within one week after the day on which it secured this information.

ARTICLE 1509.

The sick fund may enforce the determination of the accident compensation and also make use of legal means. The expiration of time limits which has occurred without any fault on its part shall not act against it; this, however, shall not apply for procedure time limits in so far as the sick fund itself enforces the procedure.

ARTICLE 1510.

If a carrier of the accident insurance in accordance with its duty provides compensation for a period during which the beneficiary may also make claim for benefits from the sick fund either according to law or according to constitution, then the fund can deduct from its benefits for this time the accident compensation, in so far as the fund in the case mentioned in article 1501 has a claim for reimbursement on account of these benefits from the accident compensation.

ARTICLE 1511.

The constitution of the sick fund may provide that during a sickness which is the result of an accident entitled to compensation, for the time during which the accident pension or care in a medical institution is provided, a pecuniary sick benefit shall only be provided

in so far as it exceeds the amount of the accident pension. In such case maintenance in a medical institution shall be computed as equal in value to the full pension.

ARTICLE 1512.

PARAGRAPH 1. The sick fund must report within three days to the carrier of the accident insurance every case of sickness which an accident entitled to compensation has brought about, as long as there is sufficient ground for the belief that the loss of earning power due to the accident will extend beyond the thirteenth week; if the patient after the expiration of three weeks after the accident has not yet recovered, then the report must be made not later than the end of the fourth week.

PAR. 2. The employé of the sick fund who conducts its business is required to make a report, if the directorate does not authorize another person to do so. The report to an accident association which is divided into sections, shall be made to the directorate of the section.

PAR. 3. The local insurance office can impose fines up to 20 marks [$4.76] on account of failure to make a report. On appeal the superior insurance office shall decide finally.

ARTICLE 1513.

PARAGRAPH 1. In case of sickness caused by an accident, the carrier of the accident insurance may take over the course of medical treatment. For the duration of the treatment or up to the end of the thirteenth week after the accident the insurance carrier must grant to the patient the same benefits which the sick fund would have to provide under the law or the constitution. In the place of sick care and pecuniary benefit, the accident insurance carrier may provide hospital care and house money, according to articles 184 to 186; with the approval of the patient it may also grant care as provided in article 185.

PAR. 2. The sick fund must reimburse the carrier of the accident insurance to the extent to which the patient could claim sick relief from it under the law or under the constitution and in so far as the carrier of the accident insurance was not itself required to make reimbursement. As compensation for the sick care, three-eighths of the basic wage shall be used, according to which the pecuniary sick benefit of the beneficiary was determined.

ARTICLE 1514.

PARAGRAPH 1. The carrier of the accident insurance may transfer to the last sick fund of the injured person the fulfillment of its duties to the injured person and his relatives even beyond the thirteenth week after the accident until the conclusion of the medical treatment to such an extent as it shall deem proper.

PAR. 2. The accident insurance carrier shall reimburse the costs arising therefrom. As reimbursement for medical treatment (art. 558, No. 1), and for care in a medical institution, the amount specified in article 1503 shall be used unless a higher expenditure is proved. In the navigation accident insurance, article 1106, paragraph 2, shall be used for this reimbursement.

PAR. 3. Article 1510 shall be applicable as regards the benefits provided by the sick fund itself.

ARTICLE 1515.

PARAGRAPH 1. In controversies between a fund and the carrier of the accident insurance arising out of the transfer of its benefits (art. 1514), the local insurance office shall decide finally, if the matter does not concern a claim for reimbursement.

PAR. 2. Controversies regarding claims for reimbursement arising

out of articles 1501, 1513 and 1514 shall be decided in judgment procedure.

ARTICLE 1516.

PARAGRAPH 1. Articles 1512 to 1515 shall also apply for miners' sick funds and substitute funds. For the substitute funds, the requirement to give notice shall be regulated in the constitution.

PAR. 2. For members of miners' sick funds, the basic wage specified according to article 180 shall be applicable, while for members of substitute funds the basic wage of their sick fund shall be used.

ARTICLE 1517.

The highest administrative authority may order that persons injured by accidents who are members of sick funds, miners' sick funds, or substitute funds, which are in a position to place the injured persons in institutes with adequate medical equipment, may be placed in another medical institution before the expiration of 13 weeks after the accident only if the directorates of the funds or of the federation of funds approve it.

II. SICKNESS INSURANCE AND INVALIDITY AND SURVIVORS' INSURANCE.

ARTICLE 1518.

PARAGRAPH 1. If an insurance institute inaugurates a course of treatment, then for the duration thereof it shall grant to the patient the same benefits that his sick fund (art. 225) would have to provide under the law or the constitution. If the insurance institute places the patient in a hospital or institution for convalescents, then it can either wholly or partly refuse to pay him the invalidity or widow's pension for the duration of such course of medical treatment.

PAR. 2. The sick fund must reimburse the insurance institute in so far as the patient could claim pecuniary sick benefits from the fund according to the law or the constitution.

ARTICLE 1519.

PARAGRAPH 1. The insurance institute which inaugurates a course of treatment may transfer the care of the patient to his last sick fund to such an extent as it deems proper.

PAR. 2. If thereby the fund has imposed upon it expenditures in excess of the extent of its legal or constitutional benefits, then the insurance institute must reimburse the costs in excess thereof.

PAR. 3. The institute must also reimburse the fund for its expenditures during the time for which the fund is no longer required to pay benefits. In such cases reimbursement for sick care and for hospital care shall be the amounts designated in article 1503 if higher expenditure is not proved.

ARTICLE 1520.

PARAGRAPH 1. In controversies between a fund and an insurance institute arising out of a transfer of the relief (art. 1519), the local insurance office shall decide finally, if the matter does not concern a claim for reimbursement.

PAR. 2. Controversies relating to claims for reimbursement arising out of articles 1518 and 1519 shall be decided in judgment procedure.

ARTICLE 1521.

Articles 1518 to 1520 shall also apply to miners' sick funds and substitute funds. The basic wage shall be specified according to article 1516, paragraph 2.

III. ACCIDENT INSURANCE AND INVALIDITY AND SURVIVOR'S INSURANCE.

ARTICLE 1522.

PARAGRAPH 1. The application to determine a pension for invalidity or to survivors may not be refused for the reason that the inva-

lidity or the death was the result of an accident requiring compensation. The pension is to be paid in full until the accident pension is granted. If the latter is granted, then there shall be paid only the amount in excess of the invalidity of survivors' pension.

PAR. 2. The same rule shall apply in the case of treatment in a medical institution which the carrier of the accident insurance grants. In such case maintenance in a medical institution shall be counted as equal to the full pension.

PAR. 3. If the pension is paid for the time for which the beneficiary has a claim to an accident pension, then the insurance institute may claim as reimbursement the accident pension in so far as the pension which it has granted is not higher. For the extent of the claim for reimbursement and for the extent to which the accident pension may be drawn upon, articles 1506 and 1507 shall be correspondingly applicable.

ARTICLE 1523.

The insurance institute may enforce the determination of the accident pension and do so even if, in case of the receipt of the accident pension, the invalidity, old age, or survivors' pension has either wholly or partly ceased. Article 1509 is correspondingly applicable.

ARTICLE 1524.

PARAGRAPH 1. If on account of a case of sickness which is the result of an accident entitled to compensation, the insurance institute provides a course of medical treatment which prevents the beginning of invalidity or removes the invalidity, then the carrier of the accident insurance is required to provide reimbursement to the insurance institute for the costs of the course of treatment even if the carrier is thereby released from a burden. Articles 1503 shall be correspondingly applicable for the extent of the reimbursement. If no basic wage has been specified, then the actual expenditure is to be replaced. The insurance institute may not demand reimbursement for a course of treatment during the first 13 weeks after the accident.

PAR. 2. If the insurance institute has provided the course of treatment, then in connection with the compensation claim of the beneficiary this shall be regarded as equal to a corresponding course of treatment provided by the carrier of the accident insurance. The carrier of the accident insurance shall be exempted from its obligation of providing pensions to the relatives of the beneficiary in so far as the insurance institute has paid house money for these persons. If the insurance institute has paid an invalidity or survivors' pension for the period of the course of treatment, then article 1522 shall be in so far applicable.

ARTICLE 1525.

If, on account of a case of sickness which is the result of an accident entitled to compensation, the insurance institute has granted a course of treatment which, although it has not prevented the beginning of invalidity or removed the same, has nevertheless released the carrier of the accident insurance from a burden, then article 1524 shall be correspondingly applicable.

ARTICLE 1526.

Controversies in regard to claims for reimbursement (art. 1522, par. 3; art. 1524, par. 1; and art. 1525) shall be decided in judgment procedure.

SECTION TWO.—RELATIONS OF THE INSURANCE CARRIERS TO OTHER BODIES.

ARTICLE 1527.

The legal obligation of communes and poor-law unions relating

to the relief of needy persons and other obligations based on law, constitution, contract, or testamentary provision (*letzwilliger Verfügung*) relating to the relief of persons insured according to this law and their survivors shall not be affected by the present law.

ARTICLE 1528.

If a miners' association, a miners' fund, or a substitute fund, pays benefits as required because of an accident for a time during which the beneficiary had or still has a claim to the imperial accident compensation because of the accident, then the miners' association or the fund may make claim to the accident compensation as reimbursement under corresponding use of article 1501, paragraphs 2 and 3, and of articles 1502 to 1507, and 1516, paragraph 2.

ARTICLE 1529.

If the carrier of the accident insurance as required makes compensation for the time during which the beneficiary may also claim the benefits of a miners' association, a miners' fund, or a substitute fund, then these funds may deduct the accident compensation from their benefits in so far as they may claim reimbursement in the case of article 1528.

ARTICLE 1530.

Article 1511 shall be correspondingly applicable to miners' sick funds and substitute funds.

ARTICLE 1531.

If the commune or poor-law union, in accordance with its legal obligations, gives relief to a needy person for the time during which he had or still has a claim according to this law, then the commune or the poor-law union may claim reimbursement according to articles 1532 to 1537, but, however, up to only one-half of the amount of this claim.

ARTICLE 1532.

A commune or a poor-law union may claim reimbursement from the benefits of the sick fund (art. 225) only if it has granted relief on account of a sickness upon which the claim of the person relieved against the fund is based.

ARTICLE 1533.

The following shall be reimbursed:

1. Costs of burial which have been provided at the death of the insured person from the funeral benefit;
2. Relief in case of sickness of the insured person which corresponds to sick care and also in case of treatment in a hospital, according to article 1503, from the benefits corresponding thereto of the sick fund;
3. Other relief from the corresponding benefits of the sick fund. In this case one-half of the basic wage shall be used for the maintenance of the person supported in a hospital. Articles 1506 and 1507 shall be correspondingly applicable as regards the amount of the claim for reimbursement and the extent to which deductions may be made from the pecuniary sick benefit and similar benefits provided in current payments.

ARTICLE 1534.

The communes or the poor-law unions may only claim reimbursement from the benefits of the accident insurance if the relief has been granted because of the results of an accident.

ARTICLE 1535.

The following shall be reimbursed:

1. Burial costs which have been paid from the funeral benefits;

2. Relief which corresponds to the sick care which is a duty of the carrier of the accident insurance, and also treatment in a hospital, shall be reimbursed according to the actual expenditure from the corresponding benefits of the carrier;
3. Other relief shall be reimbursed from the accident pension. Articles 1506 and 1507 shall be applicable as regards the extent of the claim for reimbursement and the extent to which deductions may be made from the pension.

ARTICLE 1536.

For reimbursement from the benefits of the invalidity and survivors' insurance, claims may be made only against pensions. Articles 1506 and 1507 shall be correspondingly applicable as regards the extent of the claim for reimbursement and extent to which deductions may be made.

ARTICLE 1537.

A commune or poor-law union may also claim reimbursement if the needy person who had a claim to an invalidity pension or old-age pension or survivors' pension dies without having made application for the pension.

ARTICLE 1538.

PARAGRAPH 1. The funds or communes and poor-law unions (arts. 1528 and 1531) entitled to reimbursement may also enforce the determination of the benefits under the imperial insurance. Article 1509 is here correspondingly applicable.

PAR. 2. The same shall apply to miners' associations and funds which reduce their benefits under the provisions of articles 1321 to 1323.

ARTICLE 1539.

The claim to reimbursement (arts. 1528 and 1531 to 1537) is excluded if it is not made effective against the carrier of the imperial insurance within six months after the cessation of the relief.

ARTICLE 1540.

Controversies relating to claims for reimbursement arising out of articles 1528 and 1531 to 1537 shall be decided in judgment procedure.

ARTICLE 1541.

The provisions of this section as regards communes and poor-law unions shall also be applicable as regards undertakers of establishments and funds which instead of such bodies grant relief to needy persons according to legal obligation.

ARTICLE 1542.

PARAGRAPH 1. In so far as under this law insured persons or their survivors may claim reimbursement for damage under other legal provisions, and such damage has occurred to them on account of sickness, accident, invalidity, or through the death of the one providing support, then such claim shall be transferred to the carriers of the insurance in so far as the carriers have to grant benefits under this law to those entitled to compensation. This, however, shall apply to those insured against accident and their survivors only in so far as it does not relate to a claim against the undertaker or those of equal status as specified in article 899.

PAR. 2. Article 1503 shall be correspondingly applicable in regard to the reimbursement for sick care and hospital care as well as for medical treatment and care in a medical institution.

ARTICLE 1543.

PARAGRAPH 1. If a regular court has to pass on such claims (art. 1542), then it shall be required to follow the decision which has

been issued in a procedure according to this law, as to whether and to what extent the insurance carrier is obligated.

PAR. 2. Article 901, paragraph 2, shall be correspondingly applicable as regards the suspension of the procedure before a regular court.

ARTICLE 1544.

Articles 1531 to 1533 and 1539 to 1542 shall also be applicable to miners' sick funds and substitute funds. Basic wages shall be specified according to article 1516, paragraph 2.

BOOK SIX.—PROCEDURE.

A. DETERMINATION OF BENEFITS.

SECTION ONE.—DETERMINATION BY THE INSURANCE CARRIER.

1. INAUGURATION OF THE PROCEDURE.

ARTICLE 1545.

PARAGRAPH 1. The benefits from the imperial insurance shall be determined as follows:

1. In the field of the accident insurance, on the initiative of the officials;
2. In other cases, on application.

PAR. 2. The determination shall be by expedited procedure.

ARTICLE 1546.

PARAGRAPH 1. If the accident compensation has not been determined on the initiative of the officials, the claim shall be filed with the insurance carrier at the latest within two years after the accident, otherwise the claim will not be considered.

PAR. 2. For the survivors of an insured person who has sailed on a ship which went down or is not accounted for, the time limit shall be reckoned from the date on which according to article 1099 the claim to a survivor's pension has come in existence.

ARTICLE 1547.

PARAGRAPH 1. After the expiration of the time limit the claim may still be made effective if—

1. A new result of the accident, which justifies a claim to compensation, has only later become perceptible, or if a result which occurred during the time limit has become perceptible to a considerably greater extent only after the expiration of the time limit, even though it is a gradual and regular development of the ailment;
2. If the beneficiary has been prevented from presenting the claim by circumstances beyond his control.

PAR. 2. In these cases the claim shall be presented within three months after the new result of the accident or the considerable change for the worse has become perceptible, or the hindrance to making the claim has been removed.

ARTICLE 1548.

PARAGRAPH 1. If the injured person dies as a result of the accident, the claim to compensation of the survivors, if it has not been determined on the initiative of the officials, shall be presented to the insurance carrier at the latest within two years after the death of the insured person, otherwise the claim will not be considered.

PAR. 2. After the expiration of the time limit the claim may still be brought forward if the prerequisites mentioned in article 1547, paragraph 1, No. 1, are present and the claim has been presented within three months after the removal of the hindrance.

ARTICLE 1549.

PARAGRAPH 1. The time limits (arts. 1546 to 1548) shall also be considered as observed if the claim has been presented in proper time to a carrier of the accident insurance which is not competent or to a local insurance office.

PAR. 2. The filing of the claim shall be reported to the competent authorities without delay; the party affected shall be notified thereof.

ARTICLE 1550.

If cases in which voluntary benefits of the insurance carrier would seem called for come to the notice of the local insurance office, the latter shall bring them to the knowledge of the insurance carrier.

II. SICKNESS INSURANCE.

ARTICLE 1551.

PARAGRAPH 1. Application for benefits of the sickness insurance shall be submitted to the sick fund or to the party otherwise liable.

PAR. 2. As benefits of the sickness insurance are also considered—

The benefits of sick funds, miners' sick funds, and substitute funds, according to articles 573 and 1083;

The benefits of undertakers, employers, and carriers of the other relief according to articles 577, 1084, and 1085;

The benefits of the communes and of the sick funds, according to articles 942 to 944, article 1087, paragraph 2, article 1088, paragraph 2, and article 1089;

The benefits of the carriers of the accident insurance in case of medical treatment in the instances specified in articles 580, 946, and 1092;

The benefits paid by the sick funds, miners' sick funds, substitute funds, communes, and the undertaker to the carriers of the accident insurance, according to articles 583, 948, and 1094;

The benefits of the sick funds, miners' sick funds, and substitute funds, on the transfer of the relief by carriers of the invalidity and survivors' insurance, according to articles 1519 and 1521, in so far as it does not concern invalidity or survivors' pensions.

The benefits of the undertakers, of communes, and sick funds, if the navigation accident association has according to article 1106, or the branch institute has according to article 1091, transferred to them the relief for the first 13 weeks.

PAR. 3. Further are considered as benefits of the sickness insurance the benefits of the carriers of the accident insurance and of the carriers of the invalidity and survivors' insurance if they assume in the cases of articles 579, 600, 945, 1086, 1090, 1104, 1513, 1516, 1518, and 1521 the benefits from the parties liable specified in paragraph 2.

PAR. 4. This is applicable to the previously designated cases of articles 1083 to 1086, 1092, 1094, 1104, and 1106, only in so far as article 1770 does not provide otherwise for seamen.

III. ACCIDENT INSURANCE.

1. Reports of accidents.

ARTICLE 1552.

PARAGRAPH 1. The undertaker of an establishment shall report each accident in his establishment if a person employed in the establishment is killed as a result of the accident or is injured in

such a manner that he dies or becomes wholly or partially disabled for more than three days.

PAR. 2. The accident shall be reported within three days after it has come to the notice of the undertaker of the establishment.

ARTICLE 1553.

PARAGRAPH 1. The report shall be made either in writing or orally both to the local police authority of the place of the accident and to the office of the insurance carrier specified in the constitution.

PAR. 2. If the accident occurrs while on a journey, it may also be reported to the German local police authority in whose district the injured person first resides after the accident.

PAR. 3. If the accident occurs in a foreign country and there is no authority which is competent in Germany according to paragraph 2, it shall be reported to the local police authority of the seat of the establishment in Germany.

ARTICLE 1554.

The manager of the establishment or part of the establishment in which the accident occurred may make the reports in the place of the undertaker of the establishment. He is obliged to do so if the undertaker is absent or prevented from so doing.

ARTICLE 1555.

The Imperial Insurance Office shall specify the forms for accident reports.

ARTICLE 1556.

PARAGRAPH 1. If the accident has not been reported or was reported at too late a date, the directorate of the accident association may fine the person obliged to make the report not more than 300 marks [$71.40].

PAR. 2. The same also is applicable in the case of article 913, paragraph 1, and the corresponding provisions for agricultural accident insurance (art. 1045). Article 913, paragraphs 2 and 3, articles 1045 and 1223, are here correspondingly applicable.

PAR. 3. On appeal the superior insurance office (decision chamber) decides finally.

ARTICLE 1557.

The directorate of establishments administered by the Empire or a federal State shall make the report to their superior authority in the service according to the latter's detailed instructions.

ARTICLE 1558.

The provision relating to the reporting of accidents are correspondingly applicable to accidents in the case of an insured activity which does not belong to an insured establishment.

2. Investigation of accidents.

ARTICLE 1559.

PARAGRAPH 1. If an insured person has been killed or injured in such a manner that presumably he will have to be compensated according to this law, the local police authorities of the place of the accident shall as soon as possible investigate the accident.

PAR. 2. The local police authority shall also investigate the accident if a party liable to pay benefits according to this law makes application therefor.

PAR. 3. The beneficiary may make application to the local insurance office for an investigation of the accident. The latter may request the local police authority to comply with the request.

ARTICLE 1560.

PARAGRAPH 1. Accidents occurring on a journey or in a foreign country shall be investigated by the local police authority to which they have been reported.

PAR. 2. On application of a person affected the superior administrative authority may, according to article 1562, transfer the investigation to another local police authority.

ARTICLE 1561.

In case of establishments administered by the Empire or a federal State, the superior service authority shall specify who shall investigate the accident.

ARTICLE 1562.

The following parties may take part in the investigation or be represented in it:

The injured person or his survivors;
The carrier of the accident and the sickness insurance;
The undertaker of the establishment;
The local insurance office;
The State industrial inspectors, in the case of accidents in establishments subject to industrial inspection (art. 139, b of the Industrial Code).

ARTICLE 1563.

PARAGRAPH 1. These parties affected shall be notified in due time of the date of the investigation.

PAR. 2. If the accident association is divided into sections, or if it has appointed district agents (*Vertrauensmänner*), the directorate of the section or the district agent shall be notified.

PAR. 3. Other persons who may be affected shall be called in to the investigation.

PAR. 4. The injured person or his survivors may also call in to the proceedings as assistants, adult relatives or other suitable persons who do not appear before the authorities as a business.

ARTICLE 1564.

PARAGRAPH 1. The local police authority shall determine the state of affairs. They may make any kind of inquiry with the exception of examination under oath.

PAR. 2. On application of the insurance carrier or of the beneficiary, experts shall be called in; the costs shall be paid by the applicant.

PAR. 3. If the service rooms of an authority or a vessel of the imperial navy is to be inspected, permission must be requested of the competent service authorities or of the officer in command.

ARTICLE 1565.

The investigation shall especially ascertain—

The cause, time, place, circumstances, and nature of the accident;
The name of the person killed or injured, as well as the date and place of his birth;
The nature of the injury;
The whereabouts of the injured person;
The survivors of the person killed, and the relatives of the injured person, who could claim compensation according to this law;
The amount of the benefits and pensions which the injured person is receiving from the imperial insurance.

ARTICLE 1566.

The Imperial Insurance Office may decree particular provisions regarding the written record of the investigation proceedings.

ARTICLE 1567.

PARAGRAPH 1. As soon as the investigation is terminated the local police authority shall transmit a record of the proceedings to the insurance carrier.

PAR. 2. The parties affected may demand permission to inspect the record of the proceedings and a copy of it.

PAR. 3. Copying fees may be collected for the copy.

3. Decisions of insurance carriers.

A. GENERAL PROVISIONS.

ARTICLE 1568.

The benefits of the accident insurance shall be determined—

1. By the directorate of the section, if the accident association is divided into sections: *Provided*, That the matters to be settled deal with—
   a. the medical treatment (art. 558, par. 1), or house care (art. 599),
   b. the pension for the duration of a presumably temporary disability,
   c. the treatment in a medical institution.
   d. the pension for relatives,
   e. the funeral benefit;
2. In all other cases by the directorate of the association.

ARTICLE 1569.

The constitution of the accident association may transfer for determination—

1. In the case of article 1568, No. 1—
   To the directorate of the association,
   To a committee of the directorate of the association or section,
   To special commissions,
   To local representatives (district agents);
2. In the cases of article 1568, No. 2—
   To the directorate of the section,
   To a committee of the directorate of the association or section,
   To special commissions.

ARTICLE 1570.

The administrative provisions shall designate the authorities which determine the benefits, if another carrier of the accident insurance takes the place of the accident association.

ARTICLE 1571.

PARAGRAPH 1. If the insurance carrier deems the matter not sufficiently clear, it shall, with reservation of article 1572, make further investigations.

PAR. 2. Where witnesses or experts in the course of legal aid are to be examined under oath the local insurance office shall be requested to do so. If the production of evidence before the local insurance office encounters considerable difficulties, especially on account of the great distance of the residence of witnesses from the seat of the local insurance office, or if there is risk in delay, the lowest court (*Amtsgericht*) may also be requested to act.

PAR. 3. The insurance carrier may apply for the sworn examination of a witness or expert, only if it deems it necessary to have them sworn in so as to obtain a true deposition.

PAR. 4. If the application for a production of evidence has been refused by the lowest court (*Amtsgericht*) the superior State court (*Oberlandesgericht*) decides finally.

ARTICLE 1572.

PARAGRAPH 1. On application of the insurance carrier the president of the local insurance office must examine the whole matter and express an opinion thereon. He shall decide at his own discretion what investigations are necessary.

PAR. 2. Articles 1637 to 1639 are correspondingly applicable to the competence of the local insurance office.

ARTICLE 1573.

The parties affected shall be given an opportunity to participate in the examination of witnesses or experts.

ARTICLE 1574.

PARAGRAPH 1. The provisions of the Code of Civil Procedure (*Zivilprozessordnung*) relating to the obligation to appear as witness or expert, to submit to examination, and the taking of an oath, are correspondingly applicable to the procedure before the judge applied to. The deposition shall not be refused because this law establishes the obligation of secrecy.

PAR. 2. The judge applied to decides if the deposition or the taking of the oath may be refused. An appeal against this decision to the next higher court is permissible within one week according to the provisions of the Code of Civil Procedure.

ARTICLE 1575.

The provisions of article 1574 are also applicable to the procedure before the local insurance office in so far as articles 1576 to 1579 do not prescribe otherwise.

ARTICLE 1576.

If application has been made to the local insurance office for the examination of witnesses or experts, the same decides whether the deposition or the taking of the oath may be refused. Against its decision an appeal is permissible within one week to the superior insurance office. The superior insurance office (decision chamber) decides finally.

ARTICLE 1577.

PARAGRAPH 1. Witnesses or experts may be fined not to exceed 300 marks [$71.40], only, if—

They do not put in an appearance;

They refuse their deposition or the taking of the oath without giving a reason, or after the reason given has been declared legally irrelevant.

PAR. 2. The local insurance office imposes the fine. Article 1576, sentences 2 and 3, is applicable to the appeal.

ARTICLE 1578.

PARAGRAPH 1. Military persons belonging to the active service in the army or navy or to one of the colonial forces, shall on application be summoned as witnesses or experts by the military authority.

PAR. 2. If they refuse to give testimony or to take the oath, the military court shall impose the fine on application.

ARTICLE 1579.

PARAGRAPH 1. The witnesses and experts shall receive fees as in examination before the ordinary court in civil legal disputes.

PAR. 2. On appeal against the determination of the fees, the superior insurance office decides finally.

ARTICLE 1580.

PARAGRAPH 1. If the undertaker refuses to permit the insurance carrier to make an inspection, the local insurance office decides whether and in what manner the inspection shall take place.

PAR. 2. The local insurance office may itself make the inspection

and use thereby the assistance of the local police authority, or apply for it to the local police authority.

PAR. 3. The appeal effects a stay.

PAR. 4. Article 1564, paragraph 3, is applicable to the inspection in the service rooms of an authority or in a vessel of the imperial navy.

PAR. 5. The highest administrative authority shall specify how far paragraphs 1 to 3 are applicable to establishments subject to mine inspection.

ARTICLE 1581.

PARAGRAPH 1. The undertaker shall on demand report within one week to the association the earnings which serve as basis in the computation of the compensation. He shall for this purpose make current entries in regard to the earnings paid to the individual insured persons. The constitution determines particulars hereto.

PAR. 2. If the undertaker does not report the earnings, he may be fined not to exceed 300 marks [$71.40]. If the report contains statements the incorrectness of which the undertaker has known, or must have known under the circumstances, he may be fined not to exceed 500 marks [$119].

PAR. 3. The directorate of the association imposes the fine. On appeal the superior insurance office decides finally.

PAR. 4. These provisions are also applicable to persons designated in articles 912, 913, paragraph 1, and article 1220, and in the corresponding provisions for the agricultural and navigation accident insurance (arts. 1045 and 1222). Article 913, paragraphs 2 and 3, 1045, and 1223, are correspondingly applicable.

ARTICLE 1582.

PARAGRAPH 1. If on the basis of a medical opinion, the compensation is refused or only a partial pension is granted, the attending physician shall first be heard, unless he has already submitted an adequate opinion.

PAR. 2. If the attending physician has a contract relation to the insurance carrier, which is not merely a temporary relation, another physician shall, on application, be called in.

B. DECISION.

ARTICLE 1583.

PARAGRAPH 1. The office competent for the determination (arts. 1568 to 1570) shall communicate a written decision if—

1. A compensation is to be granted or refused;
2. A pension on account of change of conditions (arts. 608, 955 and 1115) is to be determined anew;
3. The matters to be settled deal with—
   - medical treatment (art. 558, number 1), or house care (art 599), treatment in a medical institution or pension for relatives,
   - determination of the benefits after the termination of hospital treatment,
   - funeral benefit,
   - discontinuance of an accident pension on account of suspension of the pension,
   - settlement with a beneficiary in the form of a capital sum.

PAR. 2. In the decision which fixes a settlement in the form of a capital sum, the attention of the beneficiary must be called to the fact that after the settlement he has no longer any claim to a pension, even if the consequences of the accident should become aggravated.

ARTICLE 1584.

If the injured person on account of a change of conditions claims an increase in a pension or the regranting of a pension, he must submit his claim to the insurance carrier or to the local insurance office. The local insurance office shall without delay transmit it to the insurance carrier, and notify the latter of the date of the receipt of the claim.

ARTICLE 1585.

PARAGRAPH 1. If the pension of an injured person can not yet be fixed as a permanent pension, as regards its amount, the insurance carrier is authorized, during the first two years after the accident, to determine provisionally a compensation and to change the same in accordance with a change of conditions. In the decision it shall be stated that the matter concerns only a provisional pension. The superior insurance office and the Imperial Insurance Office (or the State insurance office) have within the same time limit the right to determine a provisional compensation, in so far as they award a compensation after the insurance carrier has refused the compensation. If the injured person on account of a change in condition claims an increase in a provisional pension, article 1584 shall be applicable.

PAR. 2. The permanent pension shall be determined at the latest on the expiration of two years after the accident. This determination does not assume a change of conditions; likewise the previous determination of the fundamental facts for the computation of the pension is not binding for it.

ARTICLE 1586.

If, after the expiration of three months, the insurance carrier can not yet communicate a decision, it shall by an ordinary letter inform the beneficiary of the reasons. The time limit shall begin with the date on which the insurance carrier has officially learned of the accident, or in the case the death occurs later, of the death. In the case of the survivors of an insured person who has sailed on a vessel which went down or is not accounted for, the time limit shall be reckoned from the date on which according to article 1099 the claim to a pension has arisen.

ARTICLE 1587.

PARAGRAPH 1. If, at the beginning of the liability to compensation, the amount of the compensation can not yet be decided on, the insurance carrier shall grant an advance on the compensation and notify the beneficiary by an ordinary letter of this fact.

PAR. 2. In the case of injured persons who, after the expiration of the 13 weeks after the accident, must continue to receive medical treatment, to heal the injuries, at least that compensation shall be determined, which is to be granted until the termination of the medical treatment.

ARTICLE 1588.

If compensation has been granted, the communication of the decision shall show its amount and the method of computation. In the case of compensation to injured persons, what degree of disability has been assumed shall be specifically stated.

ARTICLE 1589.

The grounds for the decision shall be stated and it shall be signed. The signature of the president is sufficient.

ARTICLE 1590.

The decision must contain the statement that it shall come into force unless the beneficiary appeals in due time; the decision shall

state the time limit for the appeal and refer to the rights mentioned in articles 1592, 1595, and 1596.

C. PROTEST.

ARTICLE 1591.

PARAGRAPH 1. A protest may be made against the decision. The protest shall be submitted in writing to the insurance carrier within one month after the receipt of the decision. Article 129, paragraphs 2 and 3, is here correspondingly applicable.

PAR. 2. Article 128, paragraph 2, is correspondingly applicable in the case of seamen sojourning outside of Europe.

PAR. 3. Minors who have completed their sixteenth year of age may make a protest on their own accord.

ARTICLE 1592.

PARAGRAPH 1. The submission in due time of the protest establishes the right of the beneficiary to a personal hearing. The office which is competent for the issuing of the decision determines whether the beneficiary shall be examined before it or before the local insurance office. Articles 1637 to 1639 are correspondingly applicable to the competence of the local insurance office. As long as the beneciary has not been examined before the competent office, he may demand that he shall be examined before the local insurance office, in the district of which he is living or employed at the time of the examination. If the beneficiary is examined before the administrative body of the association, he shall be recompensed for his cash expenditures and his loss of time. On appeal against the determination of the costs the superior insurance office decides finally.

PAR. 2. The preliminary proceedings shall be submitted to the office which must examine the beneficiary.

ARTICLE 1593.

PARAGRAPH 1. The beneficiary who has submitted the protest shall be summoned.

PAR. 2. If he does not put in an appearance at the time fixed without giving adequate reasons for his absence, the records of the proceedings shall be returned immediately to the office competent for the decision, together with a statement concerning the same.

ARTICLE 1594.

If the person summoned puts in an appearance, his depositions shall be recorded in writing. In such case the office which is competent for the examination must secure statements of the facts necessary for the determination and of the evidence which are as accurate and as complete as the circumstances permit.

ARTICLE 1595.

PARAGRAPH 1. If a physician, whom the insured person of his own choice has selected for his treatment, has not already been heard by the insurance carrier, the local insurance office shall, on application of the insured person to be made at the time of his examination, consult the opinion of a physician who has not been heard until then, if according to the judgment of the local insurance office his opinion may be of importance for the decision.

PAR. 2. If the physician requested by the local insurance office to give his opinion declines to do so, the local insurance office decides whether and from which other physician such an opinion shall be secured.

ARTICLE 1596.

PARAGRAPH 1. In any case on demand of the insured person, if he pays the costs in advance, a physician designated by him must be heard as expert. If these costs can not be determined in advance,

the local insurance office may request a lump sum as security for them.

PAR. 2. If, on a final determination made on the basis of the new opinion, a pension has been granted which was refused in the decision, or the partial pension determined in the decision has been increased, the costs shall be refunded to the beneficiary as far as is appropriate. In case of dispute regarding the refund the superior insurance office on appeal decides finally.

ARTICLE 1597.

The local insurance office decides how far the existing medical opinions shall be communicated to the new expert (arts. 1595 and 1596); on demand he shall be allowed to inspect the other preliminary proceedings.

ARTICLE 1598.

If the examination takes place before the local insurance office, it may also express its opinion regarding the matter. It may, for this purpose, make investigations as far as the evidence is at hand or easily acquired and no considerable expenses are caused.

ARTICLE 1599.

The proceedings relating to the protest, together with the preliminary proceedings, shall be transmitted to the officials competent for the determination without delay.

D. SPECIAL PROVISIONS FOR THE PROTEST AGAINST CHANGES IN PERMANENT PENSIONS.

ARTICLE 1600.

If a permanent pension must be determined anew (arts. 608, 955, and 1115), on account of a change of conditions, then articles 1591 to 1599 are applicable in so far as articles 1601 to 1605 do not provide otherwise.

ARTICLE 1601.

The examination of the beneficiary takes place before the local insurance office. The preliminary proceedings shall be submitted to the local insurance office.

ARTICLE 1602.

After the termination of the investigation, the matter shall be discussed in oral proceedings before the local insurance office with the participation of a representative of the employers and of a representative of the insured persons. The proceedings are not public.

ARTICLE 1603.

The president of the local insurance office determines the order in which the representatives shall be called into the proceedings. The superior insurance office may decree general provisions in this connection.

ARTICLE 1604.

PARAGRAPH 1. The examination of the beneficiary (art. 1594) and the investigations (art. 1598, sentence 2) may be combined with the oral proceedings if such action seems advisable.

PAR. 2. The association may have a district agent (arts. 678, No. 3, arts. 973 and 1144) or a member of another administrative body act as its representative; the beneficiary may also call into the proceedings as assistants either adult relatives or other proper persons. The representatives of the association and the assistants of the beneficiary must not consist of persons who appear before the authorities as a business.

ARTICLE 1605.

PARAGRAPH 1. The local insurance office shall submit an opinion regarding the matter. The opinion shall discuss everything which

according to the judgment of the local insurance office is of importance for the decision of the insurance carrier.

PAR. 2. If the opinion is not based on the concurrence of the president of the local insurance office and the insurance represenatives, the dissenting opinions shall be recorded.

E. FINAL DECISION.

ARTICLE 1606.

PARAGRAPH 1. After the receipt of the proceedings on the protest, or after being informed of the nonappearance of the beneficiary at the time set for the proceedings, the office competent for the determination according to articles 1568 to 1570 shall collect the proof which may still be necessary and then issue its final decision.

PAR. 2. If the protest has been submitted too late, it shall be refused as inadmissible by the office designated in paragraph 1 by a final decision.

ARTICLE 1607.

PARAGRAPH 1. Articles 1588 and 1589 are applicable to the final decision.

PAR. 2. The beneficiary shall on application be given a copy of the opinion of the local insurance office free of charge. On application he shall also be given copies of the records of the examination of witnesses and experts and also of the medical opinions; the costs shall be paid by the applicant in advance. All copies shall be furnished only in so far as this seems permissible with proper consideration of the beneficiaries. On appeal the superior insurance office decides finally.

PAR. 3. The final decision must contain the statement that it becomes valid unless the beneficiary submits the appeal to the superior insurance office within one month after the receipt of the decision.

PAR. 4. Article 128, paragraph 2, is correspondingly applicable to seamen sojourning outside of Europe.

F. OTHER PROVISIONS.

ARTICLE 1608.

PARAGRAPH 1. If an insurance carrier, before the former decision relating to the amount of the compensation has become valid, makes a new decision, by which the pension on account of a change of condition has been determined anew, the protest and the legal steps against the former decision are also considered as a protest and as legal steps against the new decision.

PAR. 2. A copy of the new decision shall be transmitted to the office with which the older dispute is pending. This office can take up the procedure on the new decision, and on the decision of the older matter decide what compensation is to be granted for the period after the issuing of the new decision.

ARTICLE 1609.

In so far as the highest administrative authority has made use of the powers mentioned in article 112, the administrative bodies there specified shall take the place of the local insurance office as regards the latter's duties in the procedure of protest.

ARTICLE 1610.

If an accident compensation for such injured persons or their survivors who reside in a foreign country is to be granted, refused, or on account of change of conditions determined anew, a final decision can be given at once without any previous decision or protest.

ARTICLE 1611.

The Imperial Insurance Office may specify the particulars in re-

gard to the certification of decisions relating to the fixing of compensation as well as in regard to the signing and making out of decisions and final decisions.

ARTICLE 1612.

The local insurance office notifies the insurance carrier if it learns that—

An assumption of the medical treatment by the insurance carrier before the expiration of the waiting term, or a transfer of the medical treatment by the insurance carrier to the sick fund after the expiration of the waiting term is called for;

An accident pension shall be determined anew or withdrawn on account of a change in condition;

A pension shall be suspended.

IV. INVALIDITY AND SURVIVORS' INSURANCE.

1. Submission of claims.

ARTICLE 1613.

Applications for benefits of the invalidity and survivors' insurance shall be directed to the local insurance office; documents used as evidence shall be inclosed.

ARTICLE 1614.

Articles 1637 to 1640 are applicable to the competency of the local insurance office.

ARTICLE 1615.

PARAGRAPH 1. If payment of a widow's pension is claimed, the amount of which has been determined, then the local insurance office of the place in which the widow at the time of the application for payment resides or is employed is the competent office; articles 1639 and 1640 are here correspondingly applicable.

PAR. 2. If the prerequisite for the receipt of an orphans' settlement is only complied with after the death of the insured person, the competence is regulated by the place of residence of the orphans.

ARTICLE 1616.

The highest administrative authority may decree that the claims may also be submitted to other authorities with the effect of articles 1256 and 1263. These authorities shall transmit the claims to the competent local insurance office without delay.

2. Preparation of the case by the local insurance office.

ARTICLE 1617.

PARAGRAPH 1. The president of the local insurance office ascertains according to his own judgment what is necessary for the elucidation of the facts; article 1652 is here correspondingly applicable.

PAR. 2. The inquiries shall cover all questions which are of importance for the decision of the insurance carrier, especially the following:

The insurance obligation or to the right to insure voluntarily;

The invalidity and the date of its beginning;

The age of the orphans;

The indigence, where a widow's pension or, in the cases of articles 1260 to 1262, an orphan's pension is concerned.

PAR. 3. On application of the beneficiary the opinion of a physician named by him shall be asked if the opinion, in the judgment of the local insurance office, may be of importance for the decision; the beneficiary shall pay the costs in advance. Otherwise articles 1595, paragraph 2, 1596, and 1597 are correspondingly applicable.

ARTICLE 1618.

After the termination of the inquiries by the president the matter

shall, in so far as article 1624 does not provide otherwise, be discussed before the local insurance office in oral proceedings, with the attendance of a representative of the employers and a representative of the insured persons.

ARTICLE 1619.

The provisions of articles 1652 and 1655 are correspondingly applicable to the preparation of the oral proceedings. In particular, the president can order before the oral proceedings, the examination of the applicant and the expression of an opinion as to his health by a physician, and also require the personal appearance of the applicant at the oral proceedings.

ARTICLE 1620.

Article 1603 is correspondingly applicable to the order in which the insurance representatives shall be called into the proceedings.

ARTICLE 1621.

Articles 1641 to 1649 are correspondingly applicable in regard to the disqualification and the refusal to serve both of the president of the local insurance office and of the insurance representatives.

ARTICLE 1622.

PARAGRAPH 1. The oral proceedings are not public.

PAR. 2. Otherwise articles 1662 to 1665, 1667, 1669, and 1672 are correspondingly applicable to the oral proceedings, but article 1654 shall not be applicable.

ARTICLE 1623.

PARAGRAPH 1. The local insurance office shall submit an expression of opinion in the matter; the expression of opinion shall include everything which, according to the judgment of the local insurance office, is of importance for the decision of the insurance carrier.

PAR. 2. If on account of a crime or intentional misdemeanor (art. 1254) or other violation (arts. 1272 and 1306) the claim may be wholly or partially disallowed or withdrawn, then an opinion shall also be expressed as to the point regarding the extent to which use shall be made of this right.

PAR. 3. Where the opinion is not based on the concurrence of the president of the local insurance office and the insurance representatives the dissenting opinions, together with a statement of the reasons, shall be recorded.

ARTICLE 1624.

PARAGRAPH 1. An oral proceeding does not take place if the matters to be settled deal with—

Old age pensions;

Orphans' pensions;

Widows' money (*Witwengeld*) and orphans' settlement (*Waisenaussteuer*);

Settlement in the form of a capital sum (arts. 1316, 1317, and 1476);

Cases in which the insurance carrier and the beneficiary are in accord.

PAR. 2. The imperial decree (art. 35, par. 2) may specify other cases in which no oral proceedings take place.

PAR. 3. If an oral proceeding does not take place, then the president of the local insurance office shall submit the expression of opinion.

ARTICLE 1625.

The president of the local insurance office transmits the proceedings and the opinion to the insurance carrier (art. 1630).

ARTICLE 1626.

PARAGRAPH 1. Articles 1617 to 1625 are correspondingly applicable if an invalidity, survivors', or supplementary pension is to be withdrawn or if a pension is to be discontinued.

PAR. 2. Articles 1637 to 1640 are correspondingly applicable to the competence of the local insurance office.

PAR. 3. An oral proceeding does not take place if the matter to be dealt with concerns the suspension of a pension (arts. 1311 to 1315, and 1318).

ARTICLE 1627.

The highest administrative authority can specify the procedure for the preparation of the matter and the expression of an opinion by the local insurance office, in so far as it is not regulated by imperial decree (art. 35, par. 2).

ARTICLE 1628.

PARAGRAPH 1. Articles 1617 to 1627 are correspondingly applicable if the preparation and expression of an opinion on the matter is transferred to administrative bodies of miners' associations, miners' funds, or special institutes for establishments of the Empire or of the federal States.

PAR. 2. Article 1571, paragraphs 2 to 4, and articles 1573 to 1579 are correspondingly applicable if witnesses or experts are to be examined under oath.

ARTICLE 1629.

The local insurance office shall notify the insurance carrier if it learns that—

An insured person or a widow can be protected from invalidity by a course of treatment;

The beneficiary of an invalidity, widows', widowers', or supplementary pension can have his earning power restored by a course of treatment;

The invalidity, widows', widowers', or supplementary pension should be withdrawn;

A pension should be suspended.

3. Decision of the insurance carriers.

ARTICLE 1630.

PARAGRAPH 1. The benefits of the invalidity and survivors' insurance shall be determined by the directorate of the insurance institute.

PAR. 2. The insurance institute for the district of the local insurance office through which the claim is to be filed is the competent one.

ARTICLE 1631.

PARAGRAPH 1. A written decision shall be communicated if the claim filed has been recognized or disallowed. It shall contain the reasons therefor and be signed. The signature of the president is sufficient. Article 1611 is applicable to the certification of decisions relating to the determination of benefits and the making out of the decisions.

PAR. 2. If the claim is disallowed the beneficiary shall, on application, receive a copy of the opinion of the local insurance office free of charge. He shall, on application, also receive copies of the records of the examination of witnesses and experts and also of the medical opinions; the costs shall be paid by the applicant in advance. All copies shall be furnished only in so far as this is permissible with due consideration of the beneficiary. On appeal the superior insurance office decides finally.

PAR. 3. If a pension is granted, the decision shall state its amount, the time of its beginning, and the method of its computation.

PAR. 4. The decision must contain the statement that it becomes valid unless the beneficiary, within one month after the receipt of the decision, files an appeal with the superior insurance office. Article 128, paragraph 2, is applicable to seamen sojourning outside of Europe.

ARTICLE 1632.

If the insurance carrier is not willing to comply with the opinion expressed by the president of the local insurance office regarding the granting of a pension, then the matter shall be returned to the local insurance office for discussion and expression of opinion (art. 1623) if the matter to be settled deals with the insurance obligation, the right to insure voluntarily, or the invalidity.

ARTICLE 1633.

Articles 1630 to 1632 are correspondingly applicable if a pension is to be withdrawn or stopped.

ARTICLE 1634.

PARAGRAPH 1. On application of the local insurance office the insurance carrier may charge to a party affected by the decision any costs which he has caused by malice, obstruction, or deceit.

PAR. 2. These costs shall accrue to the treasury of the insurance carrier.

4. Renewal of applications.

ARTICLE 1635.

PARAGRAPH 1. If an application for an invalidity pension or for the payment of the widows' pension has been definitely refused, because permanent invalidity could not be proved, or, if an invalidity or widows' pension has been withdrawn with legal effect, because the invalidity existed no longer, then the application may only be repeated one year after the delivery of the decision, and sooner only if it is authentically certified that in the meantime circumstances have arisen which furnish proof of the invalidity.

PAR. 2. If the certification is not produced, then the local insurance office shall refuse the application as being repeated prematurely. The decision is not contestable.

SECTION TWO.—DETERMINATION BY JUDGMENT PROCEDURE.

I. PROCEDURE BEFORE THE LOCAL INSURANCE OFFICE.

1. Competence of the local insurance office.

ARTICLE 1636.

In disputes as to the benefits of the sickness insurance the local insurance office (judgment committee), with reservation of article 1661, on application decides in the first instance.

ARTICLE 1637.

That local insurance office is the competent one in whose district at the time of the application the insured person is residing or is employed.

ARTICLE 1638.

PARAGRAPH 1. If the insured person has no place of residence or employment in Germany, or if he is dead, or his whereabouts are unknown, his last place of residence or employment in Germany shall be decisive.

PAR. 2. If there is no such place, then the seat of the establishment shall be decisive in which the insured person is employed or was last employed.

ARTICLE 1639.

If, according to articles 1637 and 1638, several local insurance offices are competent, preference shall be given to the one which was first approached.

ARTICLE 1640.

PARAGRAPH 1. If the local insurance office believes that another office is competent, it shall transmit the matter to the latter.

PAR. 2. If the latter office also believes it is not competent, then the decision rests with the president of that superior insurance office to which both offices are subordinate; or if there is no such office, with the Imperial Insurance Office (or the State insurance office).

PAR. 3. The decision is final and binding for the lower instances.

2. Disqualification and rejection of members of the judgment committee.

ARTICLE 1641.

The following are disqualified from participation in the judgment committee:

1. Whoever is himself one of the parties to the matter;
2. Whoever is liable for reimbursement to one of the parties;
3. Whoever is or has been married to one of the parties;
4. Whoever is related in direct line or related by marriage, or related in collateral line in the second or third degree, or related by marriage in the third degree to one of the parties;
5. Whoever was summoned in the matter as an authorized agent or assistant of one of the parties, or is entitled to act as his legal representative, or has been so entitled;
6. Whoever has been examined in the matter as a witness or expert;
7. Whoever has participated in the decision as to the benefit as a member of an administrative body of the insurance carrier.

ARTICLE 1642.

If the president of the local insurance office is at the same time president of an administrative body of the insurance carrier, then he shall also be excluded from participation in the judgment committee in such matters of this insurance carrier in which he was not active formerly.

ARTICLE 1643.

PARAGRAPH 1. Members of the judgment committee may be rejected for reasons which justify their disqualification as well as on account of prejudice. The rejection on account of prejudice is justified if facts are submitted which may warrant distrust as to the member's impartiality.

PAR. 2. No member may be rejected as prejudiced if the party knew the reason of disqualification before, but brings it forward only after the party has entered into a proceeding before the judgment committee.

ARTICLE 1644.

The president of the local insurance office shall not be excluded from participation in the judgment committee because he was officially active in the matter in the preliminary proceedings; he shall also not be rejected as prejudiced for this reason.

ARTICLE 1645.

PARAGRAPH 1. The grounds for the rejection must be reasonable.

PAR. 2. If the party, after having entered into a proceeding, declines to accept a member of the judgment committee as being

prejudiced, he must show that the grounds for the rejection have arisen only at a later time or have only later been ascertained by him.

ARTICLE 1646.

If the acceptance of a representative of the insurance is declined, the president decides. If the acceptance of the president is declined, the superior insurance office decides finally. No decision is necessary if the person whose acceptance was declined considers the application for rejection as justified.

ARTICLE 1647.

PARAGRAPH 1. The decision which considers the application as justified is final.

PAR. 2. The decision of the president which rejects the application may not be contested by itself alone, but only together with the decision on the main matter.

ARTICLE 1648.

Article 1646 is also applicable if a member of the judgment committee himself announces a fact which could justify the declination to accept him, or if doubts arise on the question whether he is disqualified by a legal reason.

ARTICLE 1649.

If after the disqualification of members or declination to accept members an insurance authority becomes incapable of making a decision, then the next higher judgment authority shall determine which other authority of equal rank shall decide the matter.

3. Procedure up to the oral proceedings.

ARTICLE 1650.

PARAGRAPH 1. The application described in article 1636 shall be made at the competent local insurance office (arts. 1637 to 1640).

PAR. 2. Article 129, paragraphs 2 and 3, is correspondingly applicable to the application at other authorities.

PAR. 3. Minors who have completed the sixteenth year of their age can make for themselves application independently and prosecute it independently.

ARTICLE 1651.

The application for a decision of the local insurance office effects a stay, if the matter in question deals with a settlement in the form of a capital sum (arts. 217 and 218). The settlement can only be confirmed or annulled by judgment procedure.

ARTICLE 1652.

PARAGRAPH 1. The president prepares the matter and may collect evidence before the oral proceedings begin.

PAR. 2. According to his own judgment he can make personal inspections, examine witnesses and experts, also under oath procure opinions from physicians and all kinds of official information, and may also call in other insurance carriers.

PAR. 3. Witnesses and experts shall only be sworn in if the president deems it necessary in order to obtain a true deposition. Article 1571, paragraphs 2 to 4; articles 1573, 1574, paragraph 1; articles 1575, 1577 to 1579, and 1580, paragraphs 2 to 5, are here correspondingly applicable; the president decides whether the deposition or taking of the oath may be refused. Within one week an appeal to the superior insurance office against his decision is permissible. The superior insurance office (decision chamber) decides finally.

ARTICLE 1653.

PARAGRAPH 1. The contents and on demand a copy of the pro-

ceedings concerning the evidence shall be communicated to the parties affected.

PAR. 2. The president decides in how far medical certificates and opinions shall be communicated. The judgment committee may make the communication later on.

ARTICLE 1654.

PARAGRAPH 1. If the claim depends on a status of family or hereditary rights, the president may direct the parties affected to have the status determined by the regular courts.

PAR. 2. At the same time he specifies up to which date the suit must be filed; on application the time limit may be extended.

ARTICLE 1655.

PARAGRAPH 1. The president specifies the time of the proceedings and notifies the parties thereof.

PAR. 2. The president may summon witnesses and experts to the oral proceedings and give other orders, especially as to the personal appearance of the applicant.

ARTICLE 1656.

Article 1603 is correspondingly applicable to the order in which the insurance representatives shall be called in to the proceedings.

ARTICLE 1657.

The president may give a preliminary decision in all matters without oral proceedings.

ARTICLE 1658.

PARAGRAPH 1. Against the preliminary decision, that legal remedy may be interposed which would be admissible against the decision, or application may be made within the same time limit for oral proceedings. The preliminary decision shall call attention thereto with a statement of the time limit.

PAR. 2. Minors, who have completed their sixteenth year of age, can make application for oral proceedings independently.

PAR. 3. If the application for oral proceedings was made too late, it shall be refused as inadmissible.

ARTICLE 1659.

PARAGRAPH 1. If use has been made of both legal remedies, then the oral proceedings shall take place.

PAR. 2. In regard to the legal remedies and the resumption of the proceedings, the preliminary decision is considered equal to a decision if no application has been made for oral proceedings.

4. Oral proceedings.

ARTICLE 1660.

PARAGRAPH 1. The proceedings before the judgment committee shall be conducted orally and publicly.

PAR. 2. Publicity may be forbidden for reasons of public welfare and morality; the decision shall be made public.

ARTICLE 1661.

In public oral proceedings on benefits of the sickness insurance the president alone decides if the matters to be settled deal with—

1. Solely the computation of the determination of the duration and amount of the sick benefit;
2. The granting of hospital care in the place of the sick benefit;
3. The funeral benefit;
4. Benefits the total amount of which is less than 50 marks [$11.90.]

ARTICLE 1662.

The applicant may either appear himself or may have himself

represented; the insurance carrier may also have itself represented. The parties and the representatives of the parties who appear shall be given a hearing.

ARTICLE 1663.

PARAGRAPH 1. The local insurance office may exclude authorized representatives and assistants who make a business of appearing before authorities.

PAR. 2. This is not applicable to lawyers and such persons who are permitted to appear before courts (art. 157 of the Civil Code), nor to such persons who are admitted as legal representatives before local and superior insurance offices and do so as a business.

PAR. 3. The superior insurance office decides on the admisssion, the highest administrative authority on appeal.

PAR. 4. The admission may be refused only if an important reason exists; it may not be refused for reasons based on the religious or political activity of the applicant.

ARTICLE 1664.

PARAGRAPH 1. The provisions of the law on the constitution of the courts (*Gerichtsverfassungsgesetz*) relating to the maintenance of order in the session (arts. 176 to 182, and 184) are correspondingly applicable.

PAR. 2. The superior insurance office decides finally on appeals against penalties for acts of disorder.

ARTICLE 1665.

PARAGRAPH 1. If the judgment committee does not deem the matter sufficiently elucidated, it shall decide on the necessary proof. The president may be charged with the execution of the decision.

PAR. 2. Articles 1652, paragraphs 2 and 3, and 1653, shall be correspondingly applicable for the production of evidence; and article 1654 for the subsequent order to have a legal status determined by the ordinary law procedure.

ARTICLE 1666.

The dispute is considered as settled if the parties come to an agreement as to the disputed claim and costs which may have arisen.

ARTICLE 1667.

PARAGRAPH 1. The judgment committee decides according to a majority of votes.

PAR. 2. If no majority can be obtained in the voting on the amount of benefits, then the votes cast for the larger amount shall be added to those cast for the next smaller one until a majority results.

ARTICLE 1668.

PARAGRAPH 1. If the judgment committee holds that the claim is established, it shall at the same time determine the amount and the time when the benefit begins.

PAR. 2. If, as an exception, the claim has been allowed because of the reasons stated, then a provisional benefit shall be decreed and its amount determined. The determination of the provisional benefit is final; the provisional payments shall be charged against the claim.

ARTICLE 1669.

PARAGRAPH 1. If by order of the president the applicant has appeared at the oral proceedings, then, on demand, he shall be reimbursed for his cash expenditures and loss of time; they may be refunded if he has appeared without any order and the judgment committee deems the appearance necessary.

PAR. 2. On appeal against the decree which determines or disallows the compensation, the superior insurance office decides finally.

PAR. 3. If the applicant has appeared without an order, the reimbursement is considered as disallowed unless the judgment committee explicitly decides that the appearance was necessary. No appeal takes place in this case.

ARTICLE 1670.

PARAGRAPH 1. At the proceedings shall be examined on the initiative of the officials whether and to what extent the party who lost the case shall refund the costs of his opponent.

PAR. 2. The amount of these costs shall be determined in the decision.

PAR. 3. On application of the party they shall be collected through the instrumentality of the local insurance office in like manner as communal taxes.

ARTICLE 1671.

PARAGRAPH 1. The decision of the judgment committee shall be made public, even if publicity in the proceedings was forbidden.

PAR. 2. It shall contain the reason, be signed by the president, copies made out, and delivered to the parties.

ARTICLE 1672.

A written record shall be made of the oral proceedings.

ARTICLE 1673.

PARAGRAPH 1. Errors in writing or in the computation and similar evident mistakes which exist in the decision shall always on application or on the initiative of the officials be corrected.

PAR. 2. The president shall decide without oral proceedings whether corrections shall be made.

PAR. 3. If he makes a correction, the authorization shall be noted on the original of the decision and on the copies. The party affected may appeal against the decree to the superior insurance office; the superior insurance office decides finally.

PAR. 4. The decree which refuses a correction may not be contested.

ARTICLE 1674.

PARAGRAPH 1. If the decision has wholly or partly omitted a principal or secondary claim submitted by a party, or the matter of costs, on application it shall be supplemented later.

PAR. 2. Such application may be decided without oral proceedings if the matters to be settled deal with a secondary claim or a matter of costs.

PAR. 3. The supplementary decision shall be noted on the original of the decision and the copies.

II. PROCEDURE BEFORE THE SUPERIOR INSURANCE OFFICE.

ARTICLE 1675.

Against final decisions of the carriers of the accident insurance, also against decisions of carriers of the invalidity and survivors' insurance, and likewise against judgments of the local insurance office, the legal remedy of the appeal to the superior insurance office (judgment chamber) is permissible.

ARTICLE 1676.

On the appeal in matters of the sickness insurance, the superior insurance office decides for the district of that local insurance office which has issued the contested decision or the president of which has issued the contested preliminary decision.

ARTICLE 1677.

PARAGRAPH 1. On the appeal in matters of the accident insurance that superior insurance office decides in whose district the insured person at the time of the filing of the appeal was residing or was

employed. Articles 1638 to 1640 are here correspondingly applicable.

PAR. 2. In matters of the navigation accident insurance the home port of the vessel, or the seat of the establishment in which the accident occurred, regulates the competence of the superior insurance office. If the home port is not situated in the district of a superior insurance office, the appeal shall be filed at the superior insurance office which is competent for the seat of the navigation accident association.

ARTICLE 1678.

PARAGRAPH 1. On the appeal in matters of the invalidity and survivors' insurance, the superior insurance office for the district of that local insurance office, decides which according to articles 1617 to 1627, has participated in the preparation of the matter.

PAR. 2. If the preparation and expression of an opinion on the matter has been transferred to administrative bodies of miners' associations, miners' funds, or to special institutes for etablishments of the Empire or of federal States, then that superior insurance office which is the competent one in the district of which the seat of these administrative bodies is located.

ARTICLE 1679.

PARAGRAPH 1. The provisions for the judicial procedure before the local insurance office are correspondingly applicable to the procedure in the case of appeals, in so far as articles 1680 to 1693 do not provide otherwise.

PAR. 2. Article 1581 is correspondingly applicable to the obligation of reporting the earnings.

ARTICLE 1680.

In matters of sickness insurance the appeal shall be filed with the local insurance office. The local insurance office shall, not later than two weeks afterward, submit it, together with the preliminary proceedings, to the superior insurance office.

ARTICLE 1681.

If the insured person or his survivors make application to hear the opinion of a specified physician, the superior insurance office, if it desires to grant the application, may make the hearing dependent on the condition that the applicant shall advance the costs and finally defray them unless the superior insurance office decides otherwise.

ARTICLE 1682.

The appeal effects a stay if the matter to be settled deals with—

The resumption of the course of treatment according to articles 603, 604, 952, and 1112.

The settlement in the form of a capital sum (arts. 616, 617, 955, 1117, 1316, 1317, and 1476).

ARTICLE 1683.

PARAGRAPH 1. If a final decision of the insurance carrier, which on account of a change in conditions reduces or withdraws an accident compensation, has been contested, then the president on application may decree that the execution of the decision shall be wholly or partly suspended in the meantime.

PAR. 2. The decree may at any time be revoked. It may not be contested by itself alone, but only together with the decision in the principal matter.

ARTICLE 1684.

PARAGRAPH 1. The associates shall be called in to the proceedings of the judgment chamber in an order of succession determined in advance. The highest administrative authority determines the particulars. Associates who have been elected to the decision chamber

shall not be called in to the proceedings of the judgment chamber as frequently as others.

PAR. 2. If for special reasons the president desires to depart from the order of succession, he shall state these reasons in the documents.

ARTICLE 1685.

PARAGRAPH 1. In matters of the accident insurance as far as possible those associates shall be summoned who are persons belonging to such establishments which in technical and economic features closely resemble the establishment in which the accident occurred, regardless of the regular order.

PAR. 2. This must be done where the matter to be settled deals with accidents in agriculture or mining establishments, in so far as persons belonging to such establishments are available as associates at the superior insurance office. Exceptions are permissible for special reasons which shall be stated in the documents.

ARTICLE 1686.

PARAGRAPH 1. The superior insurance office (decision chamber) shall elect for four-year terms at the end of the last year the physicians whom it shall summon as experts, according to need; they shall be elected from its district and, as a rule, after a hearing of the competent medical association. Such physicians, who stand in contract relations to carriers of the accident insurance, or whose services are regularly used by them for the expression of opinions, shall not be summoned as experts in matters of the accident insurance. The same is correspondingly applicable to the invalidity and survivors' insurance. At least half their number shall reside at the seat of the superior insurance office.

PAR. 2. The names of the persons elected shall be published.

PAR. 3. The experts shall, before they express their opinion, be permitted to inspect the documents.

PAR. 4. The highest administrative authority shall regulate the execution of this provision.

ARTICLE 1687.

Carriers of the accident insurance not affected by the dispute may by a judgment be required to pay compensation, if they have been summoned to the proceedings.

ARTICLE 1688.

If an accident pension is reduced, the superior insurance shall determine finally the extent to which each later pension payment shall be reduced to balance the excess already paid.

ARTICLE 1689.

A decision or final decision which determines a settlement by a capital sum, according to articles 616, 617, 955, 1117, 1316, 1317, and 1476, can only be confirmed or abrogated in a judgment procedure.

ARTICLE 1690.

PARAGRAPH 1. If the judgment chamber has abrogated the contested decision or final decision on the contested judgment on account of an essential defect in the procedure, it may reassign the matter to the lower authority or to the insurance carrier.

PAR. 2. In connection herewith it may decree the granting of a provisional benefit.

ARTICLE 1691.

The provisions of article 1661 relating to the decision by the president alone are not applicable to the procedure in appeals.

ARTICLE 1692.

PARAGRAPH 1. If it has been determined that the judgment may not be contested by a review or final appeal (arts. 1695, 1696, and

1700), then the president of the judgment chamber shall, with a reference to the legal provisions, state at the close of the judgment that no further legal remedy is permissible against it.

PAR. 2. If a preliminary decision has been issued (art. 1679 in connection with art. 1657), then it shall be stated that only an application for oral proceedings before the judgment chamber is permissible; the time limit for it is to be designated.

ARTICLE 1693.

PARAGRAPH 1. If, in a case in which a review or final appeal is forbidden (arts. 1695, 1696, and 1700), the superior insurance office desires to dissent from a fundamental decision of the Imperial Insurance Office, officially published, or if the matter to be settled in such a case deals with an interpretation of legal provisions of fundamental importance which has not yet been determined, it shall transmit the matter with a justification of its legal interpretation to the Imperial Insurance Office.

PAR. 2. If the superior insurance office desires to dissent in such a case from an officially published decision of the State insurance office to which it is subordinate, it shall then transmit the matter to the State office.

PAR. 3. If the superior insurance office desires to dissent in the same matter from a fundamental decision of the Imperial Insurance Office and of a State insurance office officially published, then the Imperial Insurance Office is competent for the decision.

PAR. 4. The Imperial Insurance Office (or the State insurance office) decides in these cases in place of the superior insurance office. The parties affected shall be notified that the matter has been so referred.

III. PROCEDURE BEFORE THE IMPERIAL INSURANCE OFFICE (OR THE STATE INSURANCE OFFICE).

1. Sickness, and invalidity and survivors' insurance.

ARTICLE 1694.

Against the judgments of the judgment chambers a review is permissible in matters of the sickness insurance, as also of the invalidity and survivors' insurance.

ARTICLE 1695.

In the case of claims to benefits of the sickness insurance, the review is excluded if the matter to be settled deals with—

1. The amount of the pecuniary sick benefit, the house money, or the funeral benefit;
2. Cases for relief in which the sick person was not disabled or was disabled less than eight weeks;
3. Maternity benefits;
4. Family benefits;
5. Settlement by capital sums;
6. Costs of procedure.

ARTICLE 1696.

In the case of claims to benefits of the invalidity and survivors' insurance, the review is excluded if the matter to be settled deals with—

1. The amount, beginning, and termination of the pension;
2. Settlement in the form of a capital sum;
3. Widows' money;
4. Orphans' settlements;
5. Costs of procedure.

ARTICLE 1697.

The review may only be based on the fact that—

1. The contested judgment is based on the nonemployment or in-

correct employment of the existing law or on an offense against the clear content of the acts.

2. The procedure had essential defects.

ARTICLE 1698.

PARAGRAPH 1. The provisions for the judgment procedure before the local insurance office are applicable to the procedure of review in so far as articles 1707 to 1721 do not provide otherwise.

PAR. 2. The provisions of articles 1656 to 1659 and 1661 are not applicable.

2. Accident insurance.

ARTICLE 1699.

Against the judgments of the judgment chambers a final appeal is permissible in matters relating to the accident insurance.

ARTICLE 1700.

A final appeal is not permitted if the matter to be settled deals with—

1. The medical treatment (art. 558, No. 1) or house care (art. 599);
2. The pension for a disability which at the time of that decision of the court from which the final appeal is taken has been passed over without contest or passed over after a legal determination has been made:
3. Parts of pensions which are to be granted for restricted periods which have already expired;
4. Treatment in a medical institution;
5. Pensions to relatives;
6. Funeral benefits;
7. Provisional pensions (art. 1585, par. 1);
8. Redetermination of a permanent pension on account of change of condition;
9. Settlement in the form of a capital sum;
10. Costs of procedure.

ARTICLE 1701.

PARAGRAPH 1. The provisions relating to the judgment procedure before the local insurance office, as well as articles 1679, paragraph 2, 1681, and 1682, are correspondingly applicable to the procedure of final appeal in so far as articles 1702 to 1721 do not provide otherwise.

PAR. 2. Articles 1656 to 1659 are here not applicable.

ARTICLE 1702.

The employers and insured persons elected from the corresponding field of the accident insurance shall be called in to the proceedings.

ARTICLE 1703.

A carrier of the accident insurance which is not affected by the dispute may be summoned to the final appeal procedure. It can be required by a judgment to pay compensation even if a claim against it has already been disallowed with legal effect.

ARTICLE 1704.

PARAGRAPH 1. If a senate of the Imperial Insurance Office has denied the obligation of an insurance carrier to provide compensation, because another insurance carrier is liable, then the claim against the other insurance carrier may not be disallowed because the insurance carrier which was exempted in the former procedure is liable to compensation.

PAR. 2. If in a previous procedure a State insurance office denied the obligation to compensation, and if another State insurance office intends to disallow the claim because it believes that the in-

surance carrier exempted in the previous procedure is liable to compensation, then the matter shall be transmitted to the Imperial Insurance Office for a decision.

ARTICLE 1705.

PARAGRAPH 1. If the obligation to compensation of an insurance carrier has been determined finally, then on application the Imperial Insurance Office (judgment senate) may discontinue a procedure which, on account of the same accident, is pending against another insurance carrier.

PAR. 2. The State insurance office shall take the place of the Imperial Insurance Office if the districts of the insurance carriers affected do not extend beyond the territory of the federal State.

ARTICLE 1706.

PARAGRAPH 1. If claims to compensation against several insurance carriers on account of the same accident have been allowed finally, then the Imperial Insurance Office (judgment senate) shall abrogate the determination which has been incorrectly made. The payments made shall be refunded from the compensation. In case of dispute the claim for reimbursement shall be decided by judgment procedure.

PAR. 2. In place of the Imperial Insurance Office the State insurance office shall decide if the districts of the insurance carriers affected do not extend beyond the territory of the federal State.

3. General provisions.

ARTICLE 1707.

If an otherwise permissible remedy at law of a party refers also to claims for which the remedy at law is not permitted, then a decision on the case shall be made only if the requirements of the applications which are permissible have been met either wholly or partly.

ARTICLE 1708.

PARAGRAPH 1. The Imperial Insurance Office decides as to the remedy at law.

PAR. 2. In the place of the Imperial Insurance Office the State insurance office shall decide if the district of the insurance carrier affected does not extend beyond the territory of the federal State. But in so far as an insurance carrier is affected for which the Imperial Insurance Office or another State insurance office is competent, the Imperial Insurance Office shall decide.

PAR. 3. The decisions shall be made by the judgment senate.

ARTICLE 1709.

PARAGRAPH 1. The remedy at law shall be stated in writing, and it shall state the reasons therefor.

PAR. 2. The senate may also alter the judgment contested for reasons other than those stated in the remedy at law.

ARTICLE 1710.

With the exception of the cases mentioned in article 1682, the remedies at law affect a stay if they are submitted by the insurance carrier in relation to amounts which must be paid subsequently for the period previous to the issuing of the contested judgment.

ARTICLE 1711.

If the contested judgment has been designated incorrectly as a final one (art. 1692), the remedy at law shall be permissible; it shall be submitted within one year after its delivery.

ARTICLE 1712.

If a member of the Judgment senate has been disqualified for a reason which justifies his exclusion, or because prejudice is appre-

hended, then the judgment senate shall decide on the application for disqualification. The person disqualified shall not participate in the decision. In the case of a tie vote the application shall be considered as disallowed.

ARTICLE 1713.

PARAGRAPH 1. If the president of the senate is of the same opinion as the reporter that the remedy at law is not permissible, or has been submitted at too late a date, he may disallow it without oral proceedings. If the remedy at law has been disallowed as belated, the applicant may within one week after delivery of the decree appeal to the judgment senate; the decree must refer to it.

PAR. 2. Otherwise the decision must be made in a public session after an oral proceeding.

ARTICLE 1714.

The Imperial Insurance Office (or the State insurance office) shall decide in regard to the admission of persons to act as legal representatives before the senates as a business (art. 1663, par. 3). Article 1663, paragraph 4, is here correspondingly applicable.

ARTICLE 1715.

PARAGRAPH 1. If the judgment contested is abrogated then the senate may either itself decide on the matter, or return it for decision to one of the lower authorities, or to the insurance carrier. In such case it may order the granting of a provisional benefit.

PAR. 2. The office to which the matter is transferred is restricted to the legal grounds of appeal on which the abrogation of the contested judgment is based.

ARTICLE 1716.

PARAGRAPH 1. The Imperial Insurance Office and the State insurance office shall publish those of their decisions which are of fundamental importance.

PAR. 2. For the Imperial Insurance Office the imperial chancellor shall specify the manner of publication; the highest administrative authority shall do so for the State insurance office.

PAR. 3. These shall also specify the previous publications to which articles 1693, 1717, and 1718 shall be applicable.

ARTICLE 1717.

PARAGRAPH 1. If in a fundamental legal question a senate of the Imperial Insurance Office desires to dissent from the decision of another senate, it shall refer the matter with the reasons for its legal interpretation to the great senate (art. 101). The same is applicable if a senate desires to dissent from the decision of the great senate itself.

PAR. 2. The referring senate shall designate one of its members who, in the decision of the matter, shall as an associate in the great senate, take the place of another member of the same group of this senate. The imperial decree (art. 35, par. 2) shall specify the regular order in which the other members of the great senate shall participate in the decisions.

ARTICLE 1718.

PARAGRAPH 1. Article 1717, paragraph 1, shall be correspondingly applicable, if a judgment senate of a State insurance office desires to dissent in a fundamental legal question from an officially published decision of the Imperial Insurance Office.

PAR. 2. The referring senate of the State insurance office shall send one of its members to the proceedings of the great senate; he shall become an associate in the great senate. Moreover, a member of another State insurance office who, according to a detailed regulation of the State government, shall be designated in advance for a

fiscal year, shall be added as a member of this senate. The imperial decree (art. 35, par. 2) shall specify which State insurance office shall delegate the second member. If only one State insurance office exists, it shall send two members.

ARTICLE 1719.

The State government shall specify the procedure to be followed if a senate of a State insurance office desires to dissent from the decision of another senate of the same State insurance office.

ARTICLE 1720.

PARAGRAPH 1. The decisions of the senates shall be signed by the president, the one reporting and another member of the senate.

PAR. 2. If the president or the one reporting is unable to serve, another member of the senate shall sign for him.

ARTICLE 1721.

The decree which rectifies a decision (art. 1673) shall be issued by the president and by those members of the senate who have signed the judgment; the decree can not be contested.

IV. REOPENING OF THE PROCEDURE.

1. Grounds for contesting.

ARTICLE 1722.

PARAGRAPH 1. A procedure concluded by a valid decision may be reopened if—

1. The judgment authority was not constituted according to regulations;
2. A person has participated in the decision, who on legal grounds is not permitted to participate unless this hindrance has been successfully brought forward either by a disqualification or remedies at law;
3. A person has participated in the decision although he has been disqualified as being prejudiced, and the disqualification was declared as well founded;
4. A party was not represented in the procedure as required by the provisions of the law, in so far as he has not expressly or tacitly approved the conduct of the dispute.

PAR. 2. In the cases mentioned in numbers 1 and 3 the reopening is not permissible if the ground for contesting could have been made valid by a remedy at law.

ARTICLE 1723.

The reopening is also permissible if—

1. A document, on which the decision is based, has been fraudulently made out or was forged;
2. In swearing to testimony or expression of opinion, on which the decision is based, the witness or expert has either purposely or negligently violated the obligation imposed by the oath;
3. The representative of the party, or the opponent or his representative, has obtained the decision by an action punishable with a public penalty;
4. A person has participated in the decision who at the proceedings has violated his official obligations toward the party, in so far as such violation is punishable by a public penalty;
5. A criminal judgment on which the decision is based has been abrogated by another judgment which has become valid;
6. A party subsequently finds or becomes able to use a document which would have brought about a decision more favorable to him.

ARTICLE 1724.

The reopening is only permissible in the cases of article 1723, numbers 1 to 4, if—

1. A valid criminal sentence has been rendered on account of the penal act;
2. A judicial criminal procedure could not be instituted or concluded for reasons other than absence of proof.

ARTICLE 1725.

In all of the cases of article 1723 the reopening is permissible only if the party, without any fault of his own, could not make valid the ground for contesting in the previous proceeding, especially by the use of a remedy at law.

ARTICLE 1726.

Together with the application for a reopening, the grounds for contesting which relate to an older decision of the same or of the lower authorities may be made valid if the contested decision is based on the older one.

2. Competence.

ARTICLE 1727.

PARAGRAPH 1. The judgment office whose decision has been contested shall decide on the application.

PAR. 2. If several decisions have been contested which were issued by judgment offices of different rank, the decision shall rest with the judgment office of higher rank. The superior insurance office shall decide in the place of the Imperial Insurance Office (or the State insurance office) if a judgment has been contested which was issued in a reviewing procedure on the basis of article 1723, Nos. 1, 2, 5, or 6.

3. Course of the procedure.

ARTICLE 1728.

PARAGRAPH 1. The application must be filed within one month.

PAR. 2. The time limit begins with the date on which the party learns the ground of contesting, but not before the decision becomes effective. After the expiration of five years, beginning with the date of validity, the application is no longer permissible.

PAR. 3. The provisions of paragraph 2 shall not be applicable if the application is made for a reopening on account of inadequate representation. The time limit begins then from the date on which the judgment was delivered to the party or, if he was not able to conduct the litigation himself, to his legal representative.

ARTICLE 1729.

The reopening may also be started on the initiative of the officials.

ARTICLE 1730.

The provision of article 129, paragraphs 2 and 3, relating to the observance of the time limit, is also correspondingly applicable to the time limits of exclusion mentioned in article 1728.

ARTICLE 1731.

PARAGRAPH 1. If the application is belated or is not permissible, the president of the judgment office can disallow it without oral proceedings by a decree which states the reasons therefor. The president of the judgment senate may do so only if he concurs therein with the one reporting.

PAR. 2. The applicant may appeal within one week after the delivery of the decision to the competent authority. The decree must refer to this fact.

ARTICLE 1732.

PARAGRAPH 1. If the application has been made in due time and is

permissible, the principal matter shall be tried anew in so far as the grounds for contesting relate to it.

PAR. 2. Those provisions are applicable to the new procedure which are valid for the authority to which the new procedure has been referred.

ARTICLE 1733.

Remedies at law shall be permissible in so far as they are stated—if they are stated—against the decisions of the authorities which have to deal with the reopening.

4. Final provisions.

ARTICLE 1734.

With the approval of the Federal Council the reopening may by imperial decree be regulated in some other manner than that given in the preceding provisions.

SECTION THREE.—SPECIAL KINDS OF PROCEDURE.

I. CONTROVERSIES OF SEVERAL INSURANCE CARRIERS IN REGARD TO THE OBLIGATION TO FURNISH COMPENSATION.

ARTICLE 1735.

If an accident insurance carrier is of the opinion that although an accident requiring compensation exists, the compensation should not be granted by it, but by another insurance carrier, then it shall grant the beneficiary a provisional relief, communicate the proceedings to the other insurance carrier, and request it to acknowledge its obligation to furnish compensation.

ARTICLE 1736.

PARAGRAPH 1. If the other insurance carrier declines to admit its obligation to furnish compensation or does not make a declaration within six weeks, the matter shall be referred to the Imperial Insurance Office. The latter shall decide by judicial procedure which insurance carrier is liable to compensation.

PAR. 2. Where a State insurance office exists it shall decide if the district of the insurance carriers affected does not extend beyond the territory of the federal State. But in so far as an insurance carrier is participating, for which the Imperial Insurance Office or another State insurance office is competent, then the decision shall be made by the Imperial Insurance Office.

PAR. 3. Articles 1701, 1702, 1708, paragraph 2, 1712, 1714, and 1716 to 1721 are here correspondingly applicable. The decision shall be delivered to the insurance carriers affected and to the beneficiary.

ARTICLE 1737.

The Imperial Insurance Office (or the State insurance office) may summon to the procedure other insurance carriers according to article 1736. They can be ordered to pay a compensation, even if the claim against them has already been disallowed with legal effect. Article 1704 is here applicable.

ARTICLE 1738.

If the other insurance carrier (art. 1735) acknowledges its obligation to furnish compensation, or if it has been declared liable to compensation by the Imperial Insurance Office, it shall refund all expenditures to the insurance carrier which has provided the provisional relief. Controversies over claims for reimbursement shall be decided by judgment procedure.

II. PROCEDURE OF DISTRIBUTION.

ARTICLE 1739.

If the employment in which an accident occurred was carried on for

several establishments or activities which are insured with different insurance carriers, then the insurance carriers affected may distribute the burden of compensation among themselves.

ARTICLE 1740.

PARAGRAPH 1. If they can not agree, the Imperial Insurance Office (judgment senate) may on application of one of them distribute the burden of compensation according to its own discretion.

PAR. 2. Where a State insurance office exists it has the right to do so, if the district of the insurance carriers affected does not extend beyond the territory of the federal State. In so far as an insurance carrier participates, for which the Imperial Insurance Office or the State insurance office is competent, the authority is vested in the Imperial Insurance Office.

PAR. 3. Articles 1701, 1702, 1712, 1714, and 1716 to 1721 are correspondingly applicable.

ARTICLE 1741.

An accident insurance carrier not affected by the dispute may be required to contribute a part of the contribution, even though the claim against it has already been disallowed with legal effect.

ARTICLE 1742.

All insurance carriers who are affected by the cost shall be called in to the procedure dealing with the amount of the compensation.

III. DETERMINATION OF THE VALIDITY OF A CLAIM TO A WIDOW'S PENSION.

ARTICLE 1743.

If a widow, before she is an invalid, makes a claim on the basis of the survivor's insurance, the amount of her widow's pension shall on her application be determined and the widow shall be informed of her right to make application for payment after the invalidity occurs (decision on the validity of a claim).

IV. CONTESTING THE FINAL DECISIONS OF THE INSURANCE CARRIER.

ARTICLE 1744.

PARAGRAPH 1. Against a valid decision or a final decision of an insurance carrier a new examination can be applied for or undertaken if one of the conditions mentioned in article 1723, Nos. 1 to 3, 5 or 6, are present.

PAR. 2. Articles 1724 to 1734 are here correspondingly applicable.

SECTION FOUR.—SPECIAL PROVISIONS FOR THE NAVIGATION ACCIDENT INSURANCE.

I. GENERAL PROVISIONS.

ARTICLE 1745.

The provisions relating to the determination of the benefits are also applicable to the navigation accident insurance in so far as articles 1746 to 1770 do not prescribe otherwise.

II. REPORTING OF ACCIDENTS.

ARTICLE 1746.

PARAGRAPH 1. An accident, sustained by a person employed on a seagoing vessel during the voyage, and which has the consequence designated in article 1552, paragraph 1, shall be recorded in the journal (ship's journal, log book) and be briefly described there or in an appendix.

PAR. 2. If no journal is kept, then the master of the vessel shall make a special written report of such accident.

ARTICLE 1747.

PARAGRAPH 1. The master of the vessel shall deliver a copy of each entry of this kind, attested by him, to that marine office (*See-*

mannsamt) where it may first be done. In place of it he may also submit the ship's journal or the written record to the marine office (*Seemannsamt*) for the purpose of making of a copy.

PAR. 2. The marine office (*Seemannsamt*) shall return the ship's journal or the written record within 24 hours.

ARTICLE 1748.

If the accident occurs in Germany before or after the voyage, the master of the vessel shall not later than the third day after he has learned of it report it to the marine office (*Seemannsamt*), or if there is none in the place, to the local police authority, as well as to the administrative body of the association specified in the constitution.

ARTICLE 1749.

The marine office (*Seemannsamt*) or the local police authority shall transmit the copies and reports to the marine office of the home port.

ARTICLE 1750.

PARAGRAPH 1. In the case of small scale establishments engaged in marine navigation, as well as of sea and coast fishing (arts. 1186 and 1187), the accident report shall be directed to the local police authority in Germany in whose district the accident has occurred or where the injured person first remains after the accident.

PAR. 2. Special records of accidents on board are not to be kept.

ARTICLE 1751.

The Imperial Insurance Office shall draw up the model form for the description of accidents and for the records.

ARTICLE 1752.

Articles 1552 to 1558 shall otherwise be applicable to the reporting of accidents.

III. INVESTIGATION OF ACCIDENTS.

ARTICLE 1753.

PARAGRAPH 1. The accident shall be investigated by a marine office (*Seemannsamt*) or by the German local police authorities with corresponding application of articles 1559, 1563, paragraph 4, and 1564 to 1567.

PAR. 2. Articles 1754 to 1766 take the place of articles 1560 to 1562, and 1563, paragraphs 1 to 3.

ARTICLE 1754.

PARAGRAPH 1. If the accident must be investigated in a foreign country, the master of the vessel shall before that German consular office (*Konsulat*) before which it can first be done, with the assistance of two ship's officers or other trustworthy persons, make a solemn declaration of the facts, which are to be established according to article 1565.

PAR. 2. For the purpose of determining the matter, the marine office (*Seemannsamt*) may also obtain the solemn declaration of other persons and secure other proofs.

ARTICLE 1755.

PARAGRAPH 1. If the accident is to be investigated in Germany, the master of the vessel shall apply for it at a marine office (*Seemannsamt*), or where none exists in the place, at a German local police authority.

PAR. 2. The authority invoked shall conduct the investigation.

ARTICLE 1756.

Accidents in German establishments conducting floating docks and other establishments designated in article 1046, No. 3, shall be investigated by the local police authority to which the accident was reported.

ARTICLE 1757.

On application of the parties affected the higher administrative authority may transfer the investigation to another marine office (*Seemannsamt*) or to other local police authorities.

ARTICLE 1758.

In the establishments administered by the Empire or a federal State, the investigation shall be conducted by the service authorities to which they are subordinated. It may be transferred to other authorities.

ARTICLE 1759.

Article 42 of the Navigation Code is correspondingly applicable to the obligation of the ship's crew to co-operate in the case of declarations or proceedings for the purpose of the investigation of accidents.

ARTICLE 1760.

PARAGRAPH 1. Articles 1562 and 1563, paragraphs 1 to 3, are as far as practicable applicable to the calling in of the parties affected to the investigation.

PAR. 2. Experts shall be called in on application of the undertaker of an establishment and of the master of the vessel; the costs shall be paid by the insurance carrier.

ARTICLE 1761.

PARAGRAPH 1. A special declaration (*Verklarung*) (art. 552 of the Commercial Code), in compliance with the requirements of articles 1565 and 1760, shall take the place of the solemn declaration and of the investigation of the accident.

PAR. 2. The exemption from fees and stamp taxes (art. 137) is also applicable to the special declaration (*Verklarung*) (par. 1), which is made before German authorities, and to the investigation of the accident at the marine office (*Seemannsamt*).

ARTICLE 1762.

The authority shall transmit to the directorate of the accident association a certified copy of the investigation proceedings or of the special declaration.

ARTICLE 1763.

For the accidents having the consequences specified in article 1559, paragraph 1, the provisions of the law relating to the investigation of marine accidents are applicable as to the obligation—

1. Of the courts, port authorities, coast authorities, marine offices (*Seemannsämter*) officials in charge of the ship registers, to report without delay marine accidents which have come to their knowledge (art. 14, ibid.);
2. Of the German marine offices in foreign countries to undertake the investigations which can not be deferred and the collection of evidence in marine accidents which have come to their knowledge (art. 15, ibid.).

ARTICLE 1764.

PARAGRAPH 1. The accident reports (art. 1763) shall be forwarded to the directorate of the association.

PAR. 2. In addition, the obligation to report marine accidents to a marine office (*Seemannsamt*) continues to exist.

ARTICLE 1765.

If, within six months after the cognizance of the accident, the marine office (*Seemannsamt*) of the home port has not received any news relating to the investigation, it shall itself institute the investigation.

ARTICLE 1766.

PARAGRAPH 1. In the case of small scale establishments engaged

in marine navigation, as well as of the sea and coast fishing establishments (arts. 1186 and 1187), the local police authorities to which the accident has been reported shall investigate it.

PAR. 2. On application of the parties affected, the higher administrative authorities may transfer the investigation to other police authorities.

IV. PENAL PROVISIONS.

ARTICLE 1767.

PARAGRAPH 1. The directorate of the association may impose fines of not more than 300 marks [$71.40] upon any person who violates the provisions relating to—

The entry in the journal (ship's journal) or other record of the accident;

The communication of the entry;

The making of solemn declarations;

The inauguration of the investigation.

PAR. 2. The ship owner is liable, according to article 1183, for the fines imposed on him or on the master of the vessel.

PAR. 3. On appeal the superior insurance office decides finally.

V. COMPETENCE OF THE ADMINISTRATIVE BODIES FOR DETERMINATIONS.

ARTICLE 1768.

If, according to article 1568, the directorate of the section must determine the accident compensation, then that section in the district of which the home port of the vessel is situated, or the establishment has its seat, is competent.

ARTICLE 1769.

In all of the cases mentioned in article 1568 the constitution of the navigation accident association may transfer the determination as follows:

To another administrative body of the association;

To a committee of the directorate of the association or of the section;

To special commissions;

To local representatives (district agents).

VI. CONTROVERSIES.

ARTICLE 1770.

PARAGRAPH 1. Articles 1108 and 1109 shall be applicable to controversies relating to claims of seamen arising out of the provisions of articles 1083 to 1086, 1092, 1104, and 1106.

PAR. 2. The same is applicable to claims of seamen which, according to article 1094, have been transferred to the insurance carrier.

B. OTHER JUDGMENT MATTERS.

I. GENERAL PROVISIONS.

ARTICLE 1771.

For controversies which must be settled not by determination procedure, but according to the specific provisions of this law by judgment procedure, articles 1636 to 1734 are correspondingly applicable in so far as articles 1772 to 1779 do not prescribe otherwise.

II. COMPETENCE.

ARTICLE 1772.

The local insurance office (judgment committee) decides disputes of the kind designated in article 1771.

ARTICLE 1773.

The local insurance office which must decide the dispute over the principal claim is also competent for all claims relating to reimbursement, refunding, and other claims arising out of the principal claim.

ARTICLE 1774.

PARAGRAPH 1. If the principal claim shall not be decided by a local insurance office, or if the claim for reimbursement has originated out of the obligation of a commune, a poor law union, an undertaker of an establishment, or a fund for the relief of indigent persons (arts. 1531, 1541), then that local insurance office is competent in whose district the insured person resides or is employed.

PAR. 2. If the insured person has no place of residence or employment in Germany, or if he has died or is not accounted for, then article 1638 shall be applicable.

ARTICLE 1775.

A dispute between a sick fund which is subordinated to a local insurance office on the one hand and a miners' sick fund or substitute fund on the other shall be decided by the local insurance office.

III. OTHER PROVISIONS.

ARTICLE 1776.

Only the remedy at law, but not the application for oral proceedings, is permissible against preliminary decisions.

ARTICLE 1777.

Only the review shall be permissible against judgments of the judgment chambers.

ARTICLE 1778.

PARAGRAPH 1. The review is not permissible in the case of reimbursement and refunding claims if the matter to be settled deals with temporary benefits.

PAR. 2. It is, however, permissible for reimbursement and refunding claims which are regulated in book 5 of this law.

ARTICLE 1779.

The appeal and the review effect a stay if the matter to be settled deals with claims for reimbursement.

C. DECISION PROCEDURE.

SECTION ONE.—GENERAL PROVISIONS.

ARTICLE 1780.

The decisions of the insurance authorities are arrived at by decision procedure, in so far as this law does not prescribe the judgment procedure.

ARTICLE 1781.

PARAGRAPH 1. The law determines which decision matters shall be determined by the decision committee, decision chamber, or decision senate. Decision matters which, according to the law, shall be decided by the decision committee shall, in so far as appeal to decision procedure is permissible, be decided by the decision chamber and decision senate. This shall be correspondingly applicable to decision matters which, according to the law, shall be decided by the decision chamber as authority of first instance.

PAR. 2. The president of the decision chamber may also refer to it other decision matters if the matters to be settled deal with questions of fundamental importance; he must do so, if in case of differences of opinion a member, who participated in the preparation of

the matter, makes application therefor. This shall be correspondingly applicable to the decision senate.

PAR. 3. Members of the Imperial Insurance Office (or the State insurance office), who are charged with the preparation of the matter, may be called into the decisions of the decision senate according to the detailed specifications of the decrees relating to the procedure (art. 35, par. 2, and art. 109, par. 1).

PAR. 4. In other respects these decrees shall specify who shall settle decision matters.

ARTICLE 1782.

The employers and insured persons elected from the corresponding field of the accident insurance shall be called into the proceedings of the decision senates in matters of the accident insurance.

ARTICLE 1783.

PARAGRAPH 1. In matters of the sickness insurance, the local insurance office or the superior insurance office, in the district of which the fund affected has its seat, is locally competent as the authority of first instance of the decision procedure, in so far as this law does not provide otherwise.

PAR. 2. If several funds are affected, which have their seat in the district of several local insurance offices, then the local insurance office of that fund to which the insured person belongs is competent. If he does not belong to any of them, or the matter to be settled deals with a dispute according to article 258, then the superior insurance office shall decide which local insurance office is competent. If the funds have their seats in the districts of different superior insurance offices, then the highest administrative authority shall determine the competent local insurance office or superior insurance office.

ARTICLE 1784.

In matters of the accident insurance the local insurance office or superior insurance office in whose district is located the seat of the establishment or where the insured activity is exercised, is locally competent as the authority of first instance of the decision procedure, in so far as this law does not provide otherwise.

ARTICLE 1785.

PARAGRAPH 1. In matters of the invalidity and survivors' insurance, the local insurance office or the superior insurance office in the district of which the employment which gives occasion for the decision took place, and in the case of voluntary insurance the local insurance office or the superior insurance office in whose district the insured person resides is locally competent as the authority of first instance of the decision procedure, in so far as this law does not provide otherwise.

PAR. 2. For claims of the survivors the local insurance office or superior insurance office is also competent, in whose district the survivors reside.

ARTICLE 1786.

PARAGRAPH 1. If an office believes itself not to be competent, but that another office is the competent one, then it shall transfer the matter to the latter.

PAR. 2. If this office also does not believe itself to be competent, then article 1640, paragraphs 2 and 3, shall be applicable.

ARTICLE 1787.

In the case of a dispute between a sick fund and a miners' sick fund or a substitute fund, article 1775 shall be applicable.

ARTICLE 1788.

In so far as the highest administrative authorities have transferred

decision rights to the administrative bodies specified in article 112, the decisions of these administrative bodies, as far as the legal remedies in the decision procedure are concerned, are equivalent to the decisions of the local insurance office.

ARTICLE 1789.

The same provisions as for the judgment procedure shall also be applicable to the disqualification and nonacceptance of persons, the elucidation of the state of affairs, as well as the securing of evidence.

ARTICLE 1790.

PARAGRAPH 1. The proceedings of the decision procedure are not public. With reservation of article 78, paragraph 3, article 1667 shall be correspondingly applicable to the voting of decision authorities for the decision chamber.

PAR. 2. The decision shall be delivered to the parties affected.

SECTION TWO.—APPEALS.

ARTICLE 1791.

An appeal against the decisions of the insurance carriers is permissible in so far as this law does not provide otherwise. The appeal shall be directed—

In matters of the sickness, and invalidity and survivors' insurance, to the local insurance office;

In matters of the accident insurance, to the superior insurance office.

ARTICLE 1792.

Against the decisions of the local insurance office as the authority of first instance the appeal to the superior insurance office is permissible, in so far as this law does not provide otherwise.

ARTICLE 1793.

Against the decisions of the superior insurance office as the authority of first instance the appeal to the Imperial Insurance Office (or the State insurance office, art. 1800) is permissible, in so far as this law does not provide otherwise.

ARTICLE 1794.

The authority which has to decide on the appeal may postpone the execution of the decision.

ARTICLE 1795.

If the appeal is permissible and has been filed in due time the parties affected shall be given a hearing.

ARTICLE 1796.

If the appeal is well founded, the authorities competent for the decision may either decide in the matter themselves or refer it back to an authority of lower instance or to the insurance carrier whose decision has been contested. Article 1715, paragraph 2, shall in such case be correspondingly applicable.

SECTION THREE.—FURTHER APPEALS.

ARTICLE 1797.

PARAGRAPH 1. In so far as this law does not provide otherwise, there is permissible against the decision issued on appeal by—

The local insurance office, the further appeal to the superior insurance office;

The superior insurance office, the further appeal to the Imperial Insurance Office (or the State insurance office).

PAR. 2. The same provisions shall be applicable to the procedure as to the appeal.

ARTICLE 1798.

The decisions issued on further appeal by the superior insurance office are final.

ARTICLE 1799.

If the superior insurance office desires to dissent in a case, in which it must decide finally, from an officially published and fundamental decision of the Imperial Insurance Office (or the State insurance office), or the matter to be settled in such a case deals with an interpretation of legal provisions of fundamental importance which have not yet been determined, then article 1693 shall regulate the procedure.

ARTICLE 1800.

PARAGRAPH 1. Where a State insurance office exists, it shall decide on decision matters, if the district of the insurance carrier affected does not extend beyond the territory of the federal State. Otherwise the decision shall be made by the Imperial Insurance Office.

PAR. 2. In so far as an insurance carrier is affected, for which according to paragraph 1 the Imperial Insurance Office or another State insurance office is competent, the decision shall be made by the Imperial Insurance Office.

ARTICLE 1801.

The provision of article 1716 relating to the publication of fundamental decisions shall also be applicable to decision matters.

D. COSTS AND FEES.

I. COSTS OF THE PROCEDURE.

ARTICLE 1802.

If a party affected has willfully or through obstructive measures or deception caused expenditures in the procedure, the insurance authority can charge the same to him, either wholly or partly.

ARTICLE 1803.

PARAGRAPH 1. In judgment matters of the sickness insurance the superior insurance office shall impose a fee upon the defeated party. It shall be fixed in proportion to the value of the thing in dispute, but shall not exceed 20 marks [$4.76] and shall be determined in the decision.

PAR. 2. The imperial decree relating to the procedure (art. 35, par. 2) shall determine the particulars hereto.

PAR. 3. The highest administrative authority shall regulate the collection of the fee.

II. FEES OF LAWYERS.

ARTICLE 1804.

PARAGRAPH 1. The compensation for the professional services of lawyers in the procedure before insurance authorities shall be determined according to a schedule of fees.

PAR. 2. The schedule of fees shall be issued by imperial decree with the approval of the Federal Council and for the procedure before the State insurance office by the State government.

ARTICLE 1805.

An agreement as to higher amounts than those provided by the schedule of fees is void.

GENERAL INDEX

[*References are to Sections.*]

ABANDONMENT,
See SEPARATION.
effect on right of spouse to compensation, 124.

ABATEMENT,
action by death under Rhode Island act, 367.
nominal award to keep proceedings alive, 566.

ABROGATION OF DEFENSES,
See COMMON LAW.
California, 263.
Illinois, 326.
Kansas, 292.
Massachusetts, 303.
Michigan, 355.
Nevada, 290.
New Jersey, 255.
Ohio, 171.
Rhode Island, 367.
Wisconsin, 227.
provisions common to all statutes, 401.

ABSTRACT,
judgment on review of California award, 263.

ACCELERATION
existing disease, 463.

ACCEPTANCE,
See WITHDRAWAL.
implied acceptance of Michigan act, 355.
non-acceptance of Illinois act by employé, 332.
notice by employer, 270.
notice of accident by Massachusetts employer, 308.
provisions of California act, 268.
Illinois act, 329-331.
Kansas act, 292.
Michigan act, 357.
New Hampshire act, 296.

[*References are to Sections.*]

ACCEPTANCE—*Continued.*
New Jersey act, 255.
Rhode Island act, 367, 370.
Washington act, 137.
Wisconsin act, 238.
withdrawal under California act, 269.
written acceptance of Michigan employer, 359.

ACCIDENT ASSOCIATIONS,
organization under German code 1911, 601.

"ACCIDENT ARISING OUT OF AND IN THE SCOPE OF EMPLOYMENT."
See SCOPE OF EMPLOYMENT.
meaning of term, 472.

ACCIDENT FUND,
creation in Washington act, 124.

ACCIDENT INSURANCE,
administration under German code 1911, 598, 601.
carriers under German code 1911, 601.
constitution under German code, 1911, 601.
Montana act, 64.
procedure under German code, 1911, 601.
relation to invalidity and survivors insurance under German code, 1911, 601.
relation to sick insurance under German code, 1911, 601.
supervision under German code, 1911, 601.
under German laws prior to 1911, 582.

ACCIDENTS,
See INJURIES.
acceleration of existing disease, 463.
agricultural insurance under German code, 1911, 601.
apportionment of compensation between different employers liable, 461.
authority of Washington board to regulate proof, 124.
building trades accident insurance laws in Germany, 590.
burden of proof of injury therefrom, 559.
causes in Germany, 46.
classification of causes, 47.
death from anaesthetic in operation, 450.
defective medical treatment, 464.
definition under British act, 446, 573.
under Federal act, 397.
duty of employer to report under Massachusetts act, 303.
effect of refusal to undergo surgical operation, 448.

[*References are to Sections.*]

ACCIDENTS—*Continued.*
experience under Ohio act, 178.
first report under California act, 271.
under Michigan act, 364.
under Wisconsin act, 241.
first report of casualty company under California act, 286.
first supplemental report under California act, 272.
German agricultural accident insurance laws, 589.
German marine insurance laws prior to 1911, 591.
gradual paralysis, 459.
heart diseases, 457.
inference that injury is the result of accident, 447.
injury from inhalation of gas, 455.
heat, cold and lightning, 449.
violence at hands of third person, 462.
injury to sight, 456.
intoxication, 468.
injuries while undergoing epileptic fit, 460.
investigation under German code, 1911, 601.
meaning of term in insurance acts, 446.
"industrial accident" in German code, 1911, 598.
negligence not always involved, 446.
notice under British act, 576, 577.
Arizona act, 375a.
Illinois act, 326, 335.
Maryland act, 376a.
Michigan act, 355.
Nevada act, 290.
New Hampshire act, 296.
New York act, 56.
Washington act, 124.
Wisconsin statute, 227.
occupational diseases, 461.
physician's report under California act, 281.
prevention, 36.
under laws, 587, 601.
question of fact under British act, 573.
record under Federal act, 381.
reports under Federal act, 378.
California act, 264.
German code, 1911, 601.
Illinois act, 326, 337, 339.
Kansas act, 292.
Massachusetts act, 308.
Michigan act, 355.
New Hampshire act, 300-301.

[*References are to Sections.*]

ACCIDENTS—*Continued.*
New Jersey act, 257, 258, 261.
various American acts, 409, 411.
Washington act, 143.
report of casualty company under Wisconsin act, 249.
request for fuller report under California act, 283.
social and economic results, 44.
strains and ruptures, 458.
suicide while insane, 471.
supplemental reports under Illinois act, 338, 340.
under Michigan act, 365.
whether apoplexy an accident, 454.
whether injury must be proximate cause of accident, 466.
whether nervous shocks accident, 451.
wilful misconduct in misrepresentation of age, 469.

ACCOUNTANTS,
authority of Ohio board to employ, 171.

ACCOUNTS,
power of Ohio board to require production, 171.

ACTIONS,
See Election of Remedies; Evidence; Hearings; Judgment; Jurisdiction; Limitation of Actions.
compensation under New Hampshire act, 296.
under Arizona act, 375a.
under New Jersey act, 255.
under Rhode Island act, 367.
independent, allowed under British act, 575.
preservation of existing under New Jersey act, 255.
rights not affected by New York acts, 56.
right of employé to sue under Ohio act, 171.
to set aside release of liability under Kansas act, 292.
when action accrues under Kansas act, 292.

ACTUARY,
authority of Ohio board to employ, 171.

ADJOURNMENT,
See Continuance.
hearing under California act, 263.
under Wisconsin statute, 227.

ADJUSTMENT,
application under California act, 277.
Wisconsin act, 248.
notice of hearing of application under California act, 278.

[*References are to Sections.*]

ADMINISTRATION,
agricultural accident insurance under German code, 1911, 601.
appropriation to put California act into effect, 263.
Massachusetts act, 305.
Michigan act, 355.
Ohio act, 171.
Washington act, 124.
Wisconsin act, 227.
Commission in New Jersey, 257.
compensation acts, generally, 96.
departments created for administration of Ohio act, 171.
Washington act, 124.
entire cost borne by State of Ohio, 171.
expenses under British act, 577.
German laws, 593.
German code of 1911, 596, 601.
German laws, prior to 1911, 581, 585.
Illinois act, 327.
interpretation of Ohio act by Board and Attorney-General, 171.
letters on estate of employer, 551.
Michigan act, 355.
Montana act, 64.
navigation accident insurance under German code, 1911, 601.
New Hampshire act, 297.
old age and invalid insurance under German law, 593.
provisions for expense in various American acts, 431.
resources of sickness insurance fund under German code, 1911, 601.
Rhode Island act, 368.
right of State to undertake, 74.
sick insurance under German code, 1911, 601.
use of postal department in Germany, 601.
various schemes under American statutes, 402.
whether administration executive or judicial, 97.
Washington act, 124.
Wisconsin act, 227.

ADMINISTRATORS,
necessity of appointment of administrator of dependent, 509.
petition for appointment under Illinois act, 346.
petition for lump sum payment under Illinois act, 344.
right of representative of deceased dependent, 508.

ADMISSION,
service of claim for injury, 252, 553.

[*References are to Sections.*]

ADOPTED CHILDREN,
dependents under Rhode Island act, 367.

AFFIDAVIT,
See Forms.
claims under Federal act, 378, 394.
under Washington act, 153.
dependent parents under Federal act, 394.
parents under Federal act, 394.
use in hearing under Ohio act, 174.

AFFIRMANCE,
award under California act, 263.

AGENTS,
duty to report under Montana act, 64.
effect of unauthorized employment of servant, 443.

AGGRAVATION,
disability under Washington act, 124.

AGREEMENT,
See Contract.
between employer and employe under Arizona act, 375a.
cancellation under Kansas act, 292.
effect as estoppel, 546.
effect of waiver under Massachusetts act, 303.
Michigan act, 355.
enforcement under Massachusetts act, 303.
filing under Kansas act, 292.
final adjustment under Rhode Island act, 374.
forms under Kansas act, 292.
in regard to compensation under Massachusetts act, 317.
judgment upon under Kansas act, 292.
petition for review of agreement under Illinois act, 353.
redemption of liability by lump sum payment under Massachusetts act, 312.
review or modification under Kansas act, 292.
stay of proceedings upon under Kansas act, 292.
stipulation under California act, 265.
to pay compensation in lieu of arbitration, 548.
where payments continueed under Rhode Island act, 374a.

AGRICULTURAL ACCIDENT INSURANCE,
under German code, 1911, 601.

AGRICULTURAL LABORERS,
accident insurance under German laws prior to 1911, 589.
extension of sick insurance under German laws, 581.

[*References are to Sections.*]

AGRICULTURAL LABORERS—*Continued.*
insurance in Germany, 47.
under British compensation acts, 436.
California act, 264.
Rhode Island act, 367.

AGRICULTURAL LAWS,
Germany, 582.

AGRICULTURE,
defined in German code 1911, 601.

ALIENS,
included in California act, 263.
covered by Michigan act, 355.
Wisconsin act, 227.
dependents, 500.

ALTERNATIVE SCHEMES,
See Election of Remedies.
compensation under various American acts, 367, 423.

AMENDMENT,
See Modification.
notice under British act, 577.
on appeal under Rhode Island act, 367.
pleadings under British act, 555.
under California act, 265.
under Wisconsin act, 235.
proposed amendment to Washington act, 126.
rules of employés' insurance association, 303.

AMPUTATION,
effect of on amount of compensation, 255.

ANAESTHETIC,
whether death from administration accidental, 450.

ANALOGOUS DECISIONS,
application to compensation acts, 77-82.

ANALYSIS,
German code 1911, 600.

ANEURISM,
whether an accident, 457.

ANKYLOSTOMIASIS,
occupational disease under British act, 577.

[*References are to Sections.*]

ANNUAL EARNINGS,
See AVERAGE ANNUAL EARNINGS.

ANNUITIES,
purchase under British act, 577.
Michigan act, 350.
Washington act, 124.
Wisconsin act, 227.
under German law prior to 1911, 593.

ANSWER,
under California act, 265.
Wisconsin act, 244.

ANTHRAX,
compensation under British act, 573.
occupational disease under British act, 577.
whether disease an accident, 453.

APOPLEXY,
whether an accident, 454.

APPEALS,
See REVIEW; SETTLEMENT.
bond for appeal from arbitrator's award under Illinois act, 350.
conclusiveness of orders and decrees, 570.
effect to suspend decree under Rhode Island act, 367.
employer bound by application for review, 568.
from award of arbitrator in Illinois, 326, 349.
from orders of Superior Court under California act, 263.
medical witnesses on appeal under Washington act, 124.
petition for review of agreement under Illinois act, 353.
question not considered below may not be reviewed on appeal, 570.
reopening of proceedings under German code, 601.
time for taking under Ohio act, 171.
under British act, 571.
California act, 263, 265.
Illinois act, 349.
Massachusetts act, 303.
Michigan act, 355.
New Hampshire act, 296.
under German laws, 585.
Ohio act, 171.
Rhode Island act, 367.
various American acts, 425.
Washington act, 124.
Wisconsin act, 227.

[*References are to Sections.*]

APPLICATION,
adjustment of claim under Wisconsin act, 248.
appeal under California act, 265.
binding force of application for review, 568.
burden of proof on application to reduce compensation, 558.
duty of clerk to record under Ohio act, 174.
duty of Ohio board to prepare and furnish forms, 171.
for classification and premium under Ohio act, 177.
money to pay for medical, nurse, and hospital services under Ohio act, 186, 192, 199, 216.
notice of hearing under California act, 278.
review of claim under Massachusetts act, 321.
under California act, 265.
used by employer under Ohio act, 176.

APPOINTMENT,
petition for appointment of third arbitrator under Illinois act, 347.

APPORTIONMENT,
among dependents under Rhode Island act, 367.
benefits under Ohio act on death of employé, 171.
between different employers, 461.
procedure for apportionment among dependents, 565.

APPRENTICES,
beneficiaries under British act, 577.
sickness insurance under German code 1911, 601.

APPROPRIATION,
See ADMINISTRATION.
expenses of administration under various American Acts, 431.

APPROVAL,
claims under Federal act, 381.
attorney's fees under Illinois act, 326.
Massachusetts act, 303.
New Hampshire act, 296.
insurance scheme under Kansas act, 292.

ARBITRATION,
agreement to pay compensation to avoid arbitration, 548.
appeal on failure in arbitration under Nevada act, 290.
arbitrator without power to grant new trial, 567.
as method of settlement of dependency of British act, 577.
assessment of costs under Massachusetts act, 322.
bond for appeal from award under Illinois act, 350.
conclusiveness of awards under Michigan act, 355.
costs under British act, 511.

[*References are to Sections.*]

ARBITRATION—*Continued.*
duties of arbitrator under Kansas act, 292.
effect of death or refusal of arbitrator to act, under British act, 577.
fees of arbitrator under Kansas act, 292.
Massachusetts act, 303.
finding conclusive in absence of appeal under Massachusetts act, 303.
hearing under Massachusetts act, 303.
jurisdiction of Kansas courts to enforce awards, 292.
jury trial on appeal under Illinois act, 351.
membership of committee under Massachusetts act, 303.
methods under British act, 577.
necessity of dispute to give arbitrator jurisdiction, 547.
petition for appeal from award under Illinois act, 349.
petition for appointment of third arbitrator under Illinois act, 347.
remuneration under British act, 577.
report of committee under Massachusetts act, 320.
report under Illinois act, 348.
report filed with state bureau in Illinois, 326.
settlement of disputes under Austrian schedule, 101.
British act, 109, 577.
British Columbia schedule, 103.
German schedule, 108.
German laws prior to 1911, 585.
Hungarian schedule, 111.
Illinois act, 326.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
New York act, 56.
New Zealand schedule, 115.
South Australian schedule, 119.
Swedish schedule, 120.
strictness of pleading not demanded under British act, 555.

ARIZONA.
act remedial, 375a.
enactment of compensation law, 5.
scope and nature of act, 375.
text of act, 375a.

ARMS,
compensation for loss under Michigan act, 355.
under New Jersey act, 255.
loss, permanent incapacity, 517.

[*References are to Sections.*]

ARSENALS,
employés protected by federal act, 378.

ASPHALT WORK,
classification under Washington act, 124.

ASSAULT,
exclusion of injury result of assault while playing prank, 476.

ASSESSMENTS,
See Insurance.
accident insurance under German code 1911, 601.
costs under Massachusetts act, 322.
employés' insurance associations, 303.
methods of collection under German code 1911, 598.
notice under Washington act, 124.
under Michigan act, 355.
under Ohio act, 171.

ASSETS,
administration insurance assets under German code 1911, 601.

ASSIGNMENT,
claims under California act, 263.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
New Jersey act, 255.
Ohio act, 171.
Rhode Island act, 367.
Washington act, 164, 165.
Wisconsin act, 227.
claims under various American acts, 427.

ASSISTANTS,
employment under Ohio act, 171.
Washington act, 124.

ASSOCIATION,
See Employes' Insurance Association.
defined in Massachusetts act, 303.

ASSUMPTION OF RISKS,
abrogation of defense in California, 263.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.

[*References are to Sections.*]

ASSUMPTION OF RISKS—*Continued.*
New Hampshire act, 296.
New Jersey act, 255.
Ohio act, 171.
Rhode Island act, 367.
Wisconsin act, 227.
abrogation of defense under various American statutes, 401.
Common law rule, 1.
right of state to abrogate defense, 71, 307.

ATTACHMENT,
claim not subject in Illinois, 326.
Arizona, 375a.
Kansas, 292.
Maryland, 376a.
Massachusetts, 303.
Michigan, 355.
New Jersey, 255.
Ohio, 171.

ATTORNEY GENERAL,
authority in case of disputes under Arizona act, 375a.
construction of Federal act, 396-399.
Ohio act, 171.

ATTORNEYS,
contingent fees must be approved in Rhode Island, 367.
demand for medical examination in office, 557.
fees under German code 1911, 601.
fees under Michigan act, 355.
fees under old system in Ohio, 43.
fees subject to approval by board under Massachusetts act, 303.
liens under Kansas act, 292.
New York act, 56.
provision for fees in various American acts, 430.
right of parties to representation under Wisconsin act, 227.
right to appear at hearing before California board, 263.
right to fees under New Hampshire act, 296.
under Ohio act, 171.
under Arizona act, 375a.
services in securing compensation under Illinois act, 326.

AUDITOR,
duties in administration of Montana act, 64.

AUSTRIA,
compensation schedule, 101.

[*References are to Sections.*]

AUTOMATIC OPERATION,
Illinois act, 327.
Nevada act, 290.
New Hampshire act, 297.
New Jersey act, 254.
Rhode Island act, 368.

AVERAGE EARNINGS,
rules for computation under Kansas act, 292.

AVERAGE ANNUAL EARNINGS,
method of computation under California act, 263.
Illinois act, 326.
Wisconsin act, 227.
under German laws prior to 1911, 583.

AVERAGE WEEKLY EARNINGS,
consideration of earnings of others in same employment, 530.
computation under British act, 577.
California act, 263.
Massachusetts act, 303.
Ohio act, 171.
Rhode Island act, 367.
deduction of sums paid helper, 529.
defined in Massachusetts act, 303.
effect of break in employment, 526.
grade of employment in which injury received, 526.
how computed, 525-530.
inclusion of allowances and gratuities, 528.

AWARDS,
See Compensation, Judgments.
arbitration, under Illinois act, 348.
cancellation under Kansas act, 292.
certified copies under the Wisconsin act, 227.
commutation under various American acts, 420.
conclusive under California act, 263.
duty of California board to make and file, 263.
effect of fraud, 227.
entry by Wisconsin commission, 253.
filing under California act, 263.
Kansas act, 292.
form under California act, 265.
Kansas act, 292.
modification under New Jersey act, 255.
Ohio act, 174.
nominal award to keep proceedings alive, 566.
payment under Ohio act, 174.

[*References are to Sections.*]

AWARDS—*Continued.*
petition for review under Illinois act, 353.
preferences under California act, 263.
review or modification under Kansas act. 292.
revision on change of circumstances, 569.
right to make award terminate at fixed date, 565.
schedule under Washington act, 124.
stay of proceedings under Kansas act, 292.
under Washington act, 157.
Wisconsin commission, 227.

B

BADEN,
excepted from operation of German code 1911, 596.

BALL PLAYERS,
whether covered by laws, 438.

BANK DEPOSITOR'S GUARANTEE CASES,
analogy to compensation acts, 78.

BANKRUPTCY,
effect of bankruptcy of employer under British act, 577.

BARNES,
concurring opinion sustaining Wisconsin act, 228.

BATH ESTABLISHMENTS,
covered by German code 1911, 598.

BAVARIA,
excepted from operation of code 1911, 596.

BELGIUM,
compensation schedule, 102.

BENEFICIARY,
See Employes, Dependents.
defined in Washington act, 124.

BENEFITS,
See Compensation.
death benefits under Wisconsin act, 227.
deduction under Illinois act, 326.
determination under German code 1911, 601.
necessity of benefit as condition to right to tax, 89.
necessity of return to tax payer, 90.
right to consider benefit fund in making compensation under Michigan act, 355.
under German code 1911, 599, 601.

[*References are to Sections.*]

BISMARK,
early advocate of insurance method, 8.
explanation of first draft of accident bill, 15.
incorporation of ideas in German code 1911, 595.

BLANKS,
See Forms.

BLAST FURNACES,
classification under Washington act, 124.
factories under Kansas act, 292.
hazardous employment under Washington act, 124.

BLASTING POWDER,
employment covered by New Hampshire act, 296.
covered by Arizona act, 376.

BLASTING WORKS,
See Explosives.

BLINDNESS,
See Loss of Sight.
compensation for loss of sight under Michigan act, 355.
total disability under Illinois act, 326.

BOARDS,
creation by Wisconsin statute, 227.
membership and duties under Massachusetts act, 303.
Michigan industrial accident board, 355.
oath by commission under Wisconsin statute, 227.
organization of Wisconsin commission, 227.
term of office of Massachusetts board, 303.
term of office of Michigan industrial accident board, 355.

BOARD OF AWARDS,
construction of Ohio statute, 171.
creation by Ohio act, 171.
duty in Ohio to classify employers, 171.
duty in Ohio to prepare and furnish forms, 171.
jurisdiction of Ohio board, 171.
membership of Ohio, 171.
power of Ohio board to employ subordinates, 171.
quorum of Ohio board, 171.
salary of members of Ohio, 171.
sessions of Ohio board, 171, 174.
vacancies in membership, 171.

BOND,
appeal under Illinois act, 326, 350.
duty of New Hampshire employer to file, 296.
state treasurer as custodian of insurance fund, 171.

[*References are to Sections.*]

BOOKS,
examination by Massachusetts board, 303.
Michigan board, 355.
Washington board, 124.
power of Ohio board to require production, 171.
power to compel production under Massachusetts act, 303.
use in proceedings before Michigan board, 355.

BORGNIS v. FALK COMPANY,
decision upholding Wisconsin act, 228.

BREWERIES,
classification under Washington act, 124.
covered by German code 1911, 598.
hazardous employment under Washington act, 124.

BRICKYARDS,
factories under Kansas act, 292.

BRIDGES,
classification under Washington act, 124.
under Arizona act, 376.
employment in erection or destruction covered by Nevada act, 290.
included in engineering work in Kansas act, 292.
workers covered by New York act, 56.

BRITISH COLUMBIA,
schedule of compensation, 103.

BRITISH COMPENSATION ACT,
See GREAT BRITAIN.
actions independent of act, 575.
construction, 573.
investment of sums paid on death claims, 574.
Lloyd-George insurance act, 578.
nature and scope, 572.
notice of accident, 576.
procedure, 546-571.
schedule of compensation, 109.
text of act of 1906.

BROTHERS,
dependents under Kansas act, 292.
Nevada act, 290.
Michigan act, 355.

BUILDERS' SICK CLUBS,
under German law prior to 1911, 581.

[*References are to Sections.*]

BUILDING CONSTRUCTION,
See CONTRACTORS, INDEPENDENT CONTRACTORS, SUB-CONTRACTORS.
covered by Illinois act, 326.
Washington act, 124.
defined in Kansas act, 292.

BUILDING,
right to employ sub-contractor under Kansas act, 292.

BUILDING LAWS,
Germany, 582.

BUILDING TRADES,
German accident insurance laws, 590.

BULLETIN,
official safety bulletin under Washington act, 166.

BURDEN OF PROOF,
injury result of accident, 559.
lack of prejudice under British act, 553.
on application to reduce compensation, 558.
that surgical operation would have been effectual, 448.
that injury is result of accident, 447.
that accident arose out of and in course of employment, 495.
that injury was result of an accident, 454.
that refusal to undergo operation was unreasonable, 448.
wilful negligence under New Jersey act, 255.

BUREAU OF LABOR,
representative at Chicago conference, 9.
statistics under Illinois act, 325-353.

BURIAL EXPENSES,
See FUNERAL EXPENSES.

C

CALIFORNIA,
abrogation of common law defenses, 263.
enactment of compensation law, 5.
essential to liability that both employer and employé should be subject to act, 263.
formal procedure under act, 266.
forms used in administration of act, 267-287.
mode of election by employer, 263.
nature and scope of act, 262.
primary liability for injuries, 263.
reports of industrial accidents, 264.
rules of practice of board, 265.
text of act and construction by board, 263.
work of commission, 12.

[*References are to Sections.*]

CALL OF NATURE,
whether within course of employment, 479.

CANDY WORKS,
classification under Washington act, 124.

CANNERIES,
classification under Washington act, 124.

CANVASSER,
injury in scope of employment, 488.

CAPE OF GOOD HOPE,
schedule, 104.

CARPENTERS,
casual employment, 440.

CARRIERS,
accident insurance under German code 1911, 601.
agricultural accident insurance under German code, 1911, 601.
determination of benefits under German code 1911, 601.
invalidity and survivors' insurance under German code 1911, 601.
German imperial insurance, 601.
navigation accident insurance under German code 1911, 601.
relation of insurance carriers to each other and to other bodies under German code 1911, 601.
sick insurance under German code 1911, 601.

CAREY
views on deprivation of jury trial in administration of acts, 98.

CASUAL EMPLOYMENT,
defined by Wisconsin commission, 233.
excluded from compensation, 255, 263, 326, 367, 440, 572.
inference of continuance of employment, 542.
meaning of term, 440.

CASUALTY INSURANCE COMPANIES,
See Insurance Companies.
duty of companies to report New Jersey accidents, 258.
effect of California act on casualty insurance, 263.
first accident report under California act, 286.
forms under California act, 284.
insurance under Maryland act, 376a.
report of accident to commissioner of labor, 261.
report of accident under Wisconsin act, 249.
statistics of experience in New York, 37.
supplemental report under California act, 287.
under Michigan act, 355.
under Wisconsin act, 227.

[*References are to Sections.*]

CEMENT WORK,
classification under Washington act, 124.

CERTIFICATES,
See FORMS.
authority of Washington board to issue benefit certificates, 124.
claim for death under Federal act, 394.
compensation by court under British act, 577.
conclusiveness of certificate of medical referee, 561.
conditions to insurance certificate under Kansas act, 292.
continuing disability under Federal act, 381.
disablement under British act, 577.
Federal act, 390.
duty of British registrar to re-certify schemes, 577.
employer under Ohio act, 189, 193, 200, 210, 221.
inability to resume work under Federal act, 381.
lay witness in case of death under Ohio act, 208, 214, 219, 225.
lay witness generally under Ohio act, 190, 197, 204.
physician's proof of death under Ohio act, 209.
physician under Federal act, 389.
Kansas act, 292.
proof of death under Ohio act, 220.
revocation of insurance certificate under Kansas act, 292.
scheme under British act, 577.
termination of incapacity, 545.
undertaker under Ohio act, 207.

CERTIFICATION,
doubtful questions to Supreme Court under Rhode Island act, 367.

CESSATION,
See TERMINATION.
benefits under German invalidity and survivors insurance, 601.

CHADWICK,
concurring decision upholding Washington act, 127.

CHARITABLE INSTITUTIONS,
as employers, 437, 511.

CHART,
injuries under Washington act, 143, 146.

CHEMICAL WORKS,
factories under Kansas act, 292.

CHEMIST,
not workman within British act, 432.

[*References are to Sections.*]

CHICAGO CONFERENCE OF 1910,
conclusions and recommendations, 11.
personnel, 9.
subjects discussed, 10.

CHIEF-JUSTICE WAITE,
influence of decision in Munn v. Illinois, 27.

CHILDREN,
See Infants.
defined in Washington act, 124.
dependents under British act, 577.
California act, 263.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
New Hampshire act, 296.
Nevada act, 290.
Rhode Island act, 367.
Wisconsin act, 227.
illegitimate children as dependents, 503.
includes stepchildren under Washington act, 124.
posthumous children as dependents, 502.

CIRCULAR LETTERS,
to employers by Wisconsin commission, 236.

CIRCUMSTANTIAL EVIDENCE,
to prove accident, 447.

CITIES,
See Municipal Corporations.
employer under California act, 263.
Michigan act, 355.
instructions under Washington act, 141.
monthly statement under Washington act, 135.

CLAIMS,
See Assignment; Compensation; Forms; Notice; Preferences; Procedure.
affidavit to claim under Washington act, 153, 154.
application for review under Massachusetts act, 321.
assignability under California act, 263.
Kansas act, 292.
Nevada act, 290.
Rhode Island act, 367.
Wisconsin act, 227.

[*References are to Sections.*]

CLAIMS—*Continued.*
compensation personal, 515.
compensation under Federal act, 389.
Illinois act, 334.
Massachusetts act, 318.
Washington act, 144.
compensation for death under Federal act, 394.
compromise, 516.
commutation under various American acts, 420.
copies of employés' claims sent to insurance companies under Massachusetts act, 308.
dependents' claim for compensation under Washington act, 152.
determination of benefits under German code 1911, 601.
duty to file under Federal act, 385.
filing under Washington act, 124.
for adjustment under Wisconsin act, 248.
exemption under Michigan act, 355.
endorsement under Federal act, 381.
extinguishment by death under New Hampshire act, 296.
forwarding under Federal act, 381.
injuries under Federal act, 381.
invalidity and survivors' insurance under German act 1911, 601.
must be filed within six months in Illinois, 326.
necessity of stating amount in notice under British act, 554.
notice of claim of common law rights under Massachusetts act, 312.
notice of injury under British act, 553.
California act, 275.
Massachusetts act, 303.
Michigan act, 363.
Wisconsin act, 247.
notice of injury not claim for compensation, 553.
payment under Federal act, 381.
preferential nature, 227, 290, 296, 326, 367, 426.
termination under German invalidity and survivors' insurance, 601.
transmission to secretary of commerce under Federal act, 381.

CLASSIFICATION,
application under Ohio act, 177.
causes of accidents in Germany, 47.
employers under Ohio act, 171.
industries by commissioner of insurance, 355.
Ohio act not arbitrary, 172.
risks under Massachusetts act, 303.
rules governing statutes, 94.

[*References are to Sections.*]

CLASSIFICATION—*Continued.*
under Washington act, 140.
under Wisconsin statute, 228.
validity of legislation, 71.
whether compensation laws are proper classification, 94.

CLASS LEGISLATION,
application to Montana act, 61.

CLERKS,
authority of Ohio board to employ, 171.
duty to keep records, 174.

CLUMSINESS.
as effecting capacity, 521.

COAL WORKERS,
covered by Montana act, 64.

COERCION,
whether Wisconsin act coercive, 228.

COLD,
whether injury accidental, 449.

COLLATERAL HEIRS,
See Dependents.
dependents under Illinois act, 326.

COLLECTION,
accident insurance under German code 1911, 601.
contributions to insurance funds under German laws, 593.

COLLECTORS,
injury whether within scope of employment, 488.

COLLIERS,
wilful misconduct, 467.

COMMISSIONER OF INSURANCE,
administration under Michigan act, 355.
classification of industries under Michigan act, 355.

COMMISSIONER OF LABOR,
duty to receive reports of New Jersey accidents, 258, 259.
duties under New Hampshire act, 296.
fourth special report, 8.

COMMISSIONS,
See Boards.
creation under Washington act, 124.
New York commission to investigate subject, 7.

[*References are to Sections.*]

COMMISSIONS—*Continued.*
salary of commissioners under Washington act, 124.
work of state commissions, 12.

COMMITTEES,
administration of insurance associations under German code 1911, 599.
report of arbitration under Massachusetts act, 320.

COMMON LAW,
application of principles under Ohio act, 171.
claim of right under Rhode Island act, 371, 372.
deprivation of defenses by compensation acts, 71.
defenses, 1, 2, 57.
distinction between common law and liability acts, 1, 2, 3, 59.
Germany, on master's liability, 15.
legislature has powers to abrogate defenses, 228.
notice of claim of right under Massachusetts act, 311.
principles governing employers' liability, 1, 2.
purpose of statutes to remedy defects, 172.
relief furnished in twelve per cent. of cases of insurance, 33.
rules of evidence on hearing before Ohio board, 171.
statistics of workmen receiving compensation, 49.
substitution of insurance and compensation laws, 33.
waiver of rights under common law under Massachusetts act, 303, 312.

COMMON LAW DEFENSES,
abrogation, 227, 255, 263, 290, 292, 303, 326, 355, 367.
right of state to abrogate, 307.

COMMUTATION,
See Lump Sum Payment.
awards and claim under various American acts, 367, 420.
weekly payments under British acts, 572.

COMPARATIVE NEGLIGENCE,
adoption of principle in California, 263.
Nevada, 290.

COMPARISON,
premium rates under Ohio law with liability insurance rates, 180.

COMPENSATION,
See Awards; Exemptions; Incapacity; Lump Sum Payment; Partial Incapacity; Preferences; Total Disability; Waiting Period.
accident under German law prior to 1911, 583.

[*References are to Sections.*]

COMPENSATION—*Continued.*
agricultural accident insurance under German code 1911, 601.
alternative schemes under various American statutes, 423.
amount, 515-545.
amount where dependent illegitimate, 542.
basis under Ohio act, 171.
British compensation legislation, 18.
burden of proof on application for reduction, 558.
burden of payment under foreign laws, 100-122.
commutation of awards and claims under various American acts, 420.
commutation of weekly payments under British act, 572.
compromise of claims, 516.
consideration of profits of business carried on by injured workmen, 539.
costs of unreasonable suit under Massachusetts act, 303.
death of workman under compensation not bar to claim of dependent, 510.
death under various American acts, 412.
denial by reason of refusal to undergo medical examination under Kansas act, 292.
dependents under Kansas act, 292.
disability prolonged by failure to take exercise, 523.
disbursements from Michigan accident funds, 355.
discontinuance under Federal act, 381.
doubled for wilful misconduct of employer under Massachusetts act, 303.
death of injured workman while receiving compensation for previous injury, 543.
deduction from compensation to dependents, 538.
deduction of hospital fees, 535.
deduction of poor relief given dependent, 538.
diminution in earnings due to general fall in wages, 534.
deduction while injured workman in prison, 536.
duty of Ohio board to prepare and furnish applications, 171.
exaggeration of condition of workman, 522.
effect of acceptance of relief fund, 537.
effect of bona fide efforts to obtain employment, 533.
effect of certificate of termination of incapacity, 545.
effect of receiving same or increase in earnings after injury, 540.
form of agreement as to compensation under Massachusetts act, 317.
injury after brief employment, 542.
investment under British act, 577.
liability under Wisconsin act, 227.

[*References are to Sections.*]

COMPENSATION—*Continued.*
loss of sight as total or partial disability, 520.
liability as between owner and charterer of vessel, 441.
lump sum payment, 326, 367, 517, 577.
medical and surgical aid under various American acts, 355, 417.
methods of computation, 227, 296, 585.
manner of payment under various American acts, 255, 263, 292, 303, 326, 355, 367, 381, 419, 585, 601.
no waiver allowed under Illinois act, 326.
partial disability under various American acts, 416.
pain and suffering not recompensed, 524.
payment of navigation accident insurance under German act 1911, 601.
partial incapacity due to clumsiness on recovery, 521.
periodical payments, 255, 292.
persons eligible under British Columbia schedule, 103.
probable earnings of infant, 541.
receipt under Massachusetts act, 323.
reduction because of ability to do light work, 532.
change of circumstances, 531.
right as dependent on proximate cause of death, 518.
right is personal, 515.
right to consider savings and insurance of employé, 303, 355.
scale under British act, 577.
Arizona act, 375a.
California act, 263.
Kansas act, 292.
Lloyd-George act, 578.
Maryland act, 376a.
Michigan act, 355.
Nevada act, 290.
New Hampshire act, 296.
New Jersey act, 255.
New York act, 56.
Rhode Island act, 367.
various American acts, 426.
Washington act, 124.
Wisconsin act, 227.
security of payments under Austrian schedule, 101.
Belgian schedule, 102.
settlement receipt under Massachusetts act, 324.
stipulation under California act, 265.
total incapacity, 414, 519.
waiting period under various acts, 290, 303, 355, 367, 376, 577, 584, 601.
weekly payments under Massachusetts act, 303.
when commences under various American acts, 263, 414.

[*References are to Sections.*]

COMPENSATION LAWS,
See NAMES OF VARIOUS STATES AND COUNTRIES.
argument for joint contribution by employer and employé to fund, 53.
distinguishing characteristics, 5.
economic basis, 33-53.
English plan as remedy, 51.
exercise of taxing power, 83-91.
extra-territorial effect, 465.
limitations of legislative power, 95.
nature of obligation imposed, 67.
nature of administration, 96-97.
proper exercise of police power, 93.
public purpose within tax power, 87.
provision for test of validity of Washington act, 124.
relationship between employer and employé, 70.
validity as to employé, 72.
employer, 71.
State, 74.
whether act may be optional, 99.
whether administration executive or judicial, 97.
whether laws lack uniformity and equality, 94.

COMPRESSED AIR,
Workers protected by New York act, 56.

COMPROMISE,
See SETTLEMENT.
claims, 516.
under California act, 263.
under Kansas act, 292.
under Nevada act, 290.
Wisconsin act, 227.
essential of fairness, 516.
inadequacy, 516.

COMPULSORY INSURANCE,
basis, 27.
exemptions under German laws prior to 1911, 593.
Ohio, 169.
personal liability of employer under German laws prior to 1911, 588.
Washington, 124.
who subject under German law, 582.
under German law prior to 1911, 579-593.

COMPULSORY LAWS,
Arizona act, 375a.
power of State to enact, 528.

[*References are to Sections.*]

COMPUTATION,
See AVERAGE EARNINGS; AVERAGE WEEKLY EARNINGS; AVERAGE ANNUAL EARNINGS; COMPENSATION.

CONCURRENT EMPLOYMENTS,
compensation under Kansas act, 292.
effect, 442, 577.

CONFINEMENT,
compensation to women under German law, 581.

CONNECTICUT,
delegates to Chicago Conference, 9.

CONSERVATOR,
See GUARDIANS.
appointment for incompetent under Illinois act, 326.
petition for appointment under Illinois act, 346.

CONSTITUTION,
agricultural accident insurance under German code, 1911, 601.
accident insurance under German code, 1911, 601.
sick insurance under German code, 1911, 601.
navigation accident association under German code, 1911, 601.

CONSTITUTIONAL LAW,
See DUE PROCESS; EQUAL PROTECTION OF THE LAWS.
application of seventh amendment, 67.
construction of Massachusetts act, 307.
Montana act, 60-63.
New York act, 57.
Ohio act, 172.
Washington act, 127.
Wisconsin act, 228.
deprivation of right to trial by jury, 98.
provisions for test of validity of Washington act, 124.

CONSTITUTIONAL LIMITATIONS,
power of legislature, 95.
right to enact laws, 67.
taxing power, 83.
whether compensation laws infringe, 76.

CONSTRUCTION,
California act by board, 263.
Federal act, 396-399.
New Jersey act, 259.
Ohio act by Board and Attorney-General, 171.
popular use of words, 573.
Wisconsin act by commission, 229-234.

[*References are to Sections.*]

CONTEMPT,
attachment for refusal to answer inquiries of Ohio board, 171.
power to enforce process by contempt in Wisconsin, 228.

CONTINGENT FEES,
right under New Hampshire act, 296.
must be approved in Rhode Island, 367.
necessity for approval under Kansas act, 292.

CONTINUANCE,
adjournment of hearings under Wisconsin act, 227.
hearing before California board, 263.
power of Wisconsin commission to grant, 235.
under Ohio act, 174.

CONTRACTOR,
See Contractor, Principal Contractor, Employer, Independent. Contractor.
statement of wages under Washington act, 134.

CONTRACTS,
See Agreements.
as basis of relation of employé under Wisconsin statute, 227.
concurrent contracts of service, 442.
exemption of employer under various American acts, 263, 367, 428, 514.
fraudulent where entered into by beneficiary within a week after injuries under Illinois act, 326.
implications under New Jersey contract of hire, 255.
between employer and employé as to compensation under Rhode Island act, 367.
between insurer and employé under Massachusetts act, 308.
between employer and employé under Arizona act, 375a.
between employer and employé under Maryland act, 376a.
obligation not infringed by Ohio statute, 172.
insurance contract filed with Maryland insurance commission, 376a.
right of employer to contract with servant under British act, 577.
supplementary act saving existing contracts in New Jersey, 256.
waiving effects of Montana act, 64.
what is contract of service, 511.
whether compensation laws violate contract clause or constitution, 92.

CONTRIBUTORY NEGLIGENCE,
See Wilful Misconduct.
abolition of defense under various American statutes, 292, 303, 326, 355, 367, 401.
defense at common law, 1.

[*References are to Sections.*]

CONTRIBUTORY NEGLIGENCE—*Continued.*
definition of "wilful misconduct" by Wisconsin commission, 231.
deprivation of defense by compensation acts, 71.
effect of wilful misconduct under British act, 467.
under Federal act, 378.
Kansas act, 292.
Michigan act, 355.
Rhode Island act, 367.
intentional injuries under Washington act, 124.
judicial origin, 57.
principle of comparative negligence operative in California, 263.
Nevada, 290.
right of state to abrogate defense, 307.
wilful misconduct of employé, 577, 583.
wilful negligence of employé under Illinois act, 326.

CONTROVERSIES,
See ARBITRATION; DISPUTES.

CONVICTS,
deduction of compensation while injured workman in prison, 536.

COPIES,
claims under Massachusetts act, 308.
evidence taken by stenographer under Ohio act, 171.

CORPORATIONS,
employers under California act, 263.
Michigan act, 355.
Nevada act, 290.
New Jersey act, 255.
Wisconsin act, 227.
mode of service of notice under British act, 577.

COSTS,
See EXPENSES; FEES; FUNERAL EXPENSES.
arbitration proceedings under British act, 577.
arbitrator under Kansas act, 292.
assessment under Massachusetts act, 322.
druggist bill under Ohio act, 198, 202, 212, 223.
fees on appeal from California award, 263.
medical examination under Michigan act, 355.
not taxed where employer does not dispute liability, 547.
suit under Nevada act, 290.
under British act, 571.
German code, 1911, 601.
Ohio act, 171.
Wisconsin act, 227.

[*References are to Sections.*]

COSTS—*Continued.*
undertaker's bill under Ohio act, 207, 218.
unreasonable action under Massachusetts act, 303.

COUNTIES,
employer under California act, 263.
Michigan act, 355.
Wisconsin act, 227.
instructions under Washington act, 141.

COURSE OF EMPLOYMENT,
See SCOPE OF EMPLOYMENT.

COURT OF CONCILIATION,
under Wisconsin act, 228.

COURT PHYSICIAN,
See MEDICAL EXAMINATION.

COURTS,
See ARBITRATION, APPEAL.
abolition of jurisdiction by Washington act, 124.
defined in British act, 577.
entry of judgment on award under Kansas act, 292.
filing awards under Wisconsin act, 227.
jurisdiction of Illinois act, 326.
New Hampshire act, 296.
Rhode Island act, 367.
procedure in Rhode Island Superior Court, 373.
submission of disputes under New Jersey act, 255.

CREOSOTING WORKS,
classification under Washington act, 124.

CRUTCHES,
supply under California act, 263.
Wisconsin act, 227.

CULLEN,
concurring opinion in New York case deciding invalidity of act, 57.

CUNNINGHAM V. NORTHWESTERN IMPROVEMENT CO.,
decision, 62.

D

DEATH,
See DEPENDENTS, FUNERAL EXPENSES.
certificate of lay witness under Ohio act, 208, 214, 219, 225.
compensation under Austrian schedule, 101.
Arizona act, 375a.
Belgium schedule, 102.

[*References are to Sections.*]

DEATH—*Continued.*
British act, 107, 577.
British Columbia schedule, 103.
California act, 263.
Cape of Good Hope schedule, 104.
Danish schedule, 105.
Kansas act, 292.
Federal act, 378, 381, 394.
Finland schedule, 106.
French schedule, 107.
German schedule, 108.
Greek schedule, 110.
Hungarian schedule, 111.
Illinois act, 326.
Italian schedule, 112.
Luxemburg schedule, 113.
Maryland act, 376a.
Massachusetts act, 303.
Michigan act, 355.
Montana act, 64.
Nevada act, 290.
New Hampshire act, 296.
New York act, 56.
New Zealand schedule, 115.
Norwegian schedule, 116.
Ohio act, 171.
Rhode Island act, 367.
Russian schedule, 118.
South Australian schedule, 119.
Spanish schedule, 121.
Swedish schedule, 120.
various American acts, 412.
West Australian schedule, 122.
Wisconsin act, 227.
druggist's cost bill under Ohio act, 212, 223.
duty of Ohio board to prepare and furnish blank forms for proof, 171.
effect to abate actions under Rhode Island act, 367.
effect of death of injured employé under Michigan act, 355.
effect of death while workman receiving compensation for previous injury, 543.
employer's certificate and oath under Ohio act, 210.
expenses of last sickness under Massachusetts act, 303.
extinguishment of claim under Illinois claim, 326.
fee bill of physician under Ohio act, 222.
first notice under Ohio act, 184.

[*References are to Sections.*]

DEATH—*Continued.*
from anaesthetic whether accidental, 450.
investment of claims paid under British act, 574.
necessity of report under Illinois act, 326.
payment of compensation where estate not administered under New Jersey act, 255.
payment to personal representative under Rhode Island act, 367.
payment to representative under Massachusetts act, 303.
parties to proceedings under California act, 265.
physician's certificate under Ohio act, 209.
physician's fee bill under Ohio act, 211.
presumption from lapse of time, 507.
procedure under Federal act, 393.
proof by physician under Washington act, 150.
proof by undertaker under Washington act, 151.
report under Federal act, 381, 388.
report under Ohio factory act, 173.
scale of compensation under Kansas act, 292.
time for filing claim under British act, 577.
undertaker's certificate and cost bill under Ohio act, 207, 218.
workman under compensation not bar to claim of dependents, 510.

DEATH BENEFITS,
See DEATH.
under Federal act, 381, 388.
under Michigan act, 355.

DECISIONS,
application of analogous decisions, 77-82.
by department under Federal act, 381.
conclusiveness of decisions of Massachusetts board, 303.
construction of Montana act, 62.
New York act, 57.
opinion sustaining Massachusetts act, 307.
Ohio act, 172.
Washington act, 127.
Wisconsin act, 228.
under German code, 1911, 601.
Wisconsin commission, 229-234.

DECLARATIONS,
admissibility of declaration of injured workman, 560.
by employer under New Hampshire act, 299.

DEFAULT,
payment of premiums under Michigan act, 355.

[*References are to Sections.*]

DEFAULTING EMPLOYERS,
under Washington act, 124.

DEFENSES,
See Abrogation of Defenses.
abrogation of common law defenses under various American statutes, 401.
enforcing arbitration, award under Massachusetts act, 303.
legislative power to abrogate common law defenses, 228.

DEFINITIONS,
"accident," 446.
"accident arising out of and in the course of employment," 472.
"accidents" under British act, 573.
Federal act, 397.
"actual dependents" under New Jersey act, 255.
"agriculture" under German code, 1911, 601.
"association" in Massachusetts act, 303.
"average weekly earnings," 303, 355, 367, 525-530.
"beneficiary" in Washington act, 124.
"building work," in Kansas act, 292.
"casual employment" by Wisconsin commission, 233.
"child" in Washington act, 124.
"compensation laws," 100.
"courts" in British acts, 577.
"dependent," 124, 234, 290, 292, 303, 413, 496, 577.
"disease without injury" under Federal act, 398.
"due process," 97.
"earnings" under German code, 1911, 601.
"electrical work," in Kansas act, 292.
"employé," 227, 263, 303, 326, 355, 418.
"employer," 56, 124, 227, 255, 290, 292, 303, 355, 367, 511, 577.
"employment," 56, 230, 326, 601.
"employment on railways," in Kansas act, 292.
"engineering work," 124, 292.
"factories," 124, 292.
"fiscal year" under German code, 1911, 601.
"in course of employment" under Federal act, 399.
"industrial accident" under German code, 1911, 598.
"injury," 124, 397, 398.
"invalid" in Washington act, 124.
"manager" in British act, 577.
"members of a family," in Kansas act, 292, 577.
"mill" in Washington act, 124.
"mine," 124, 292.
"notice" by Wisconsin commission, 233.
"outworker" in British act, 577.

[*References are to Sections.*]

DEPENDENTS—*Continued.*
"permanent partial disability," 124.
"police force" in British act, 577.
"port" in British act, 577.
"quarry," 124, 292.
"railway" in Kansas act, 292.
"seaman" in British act, 577.
"ship" in British act, 577.
"State employé" in Ohio act, 171.
"subscriber" in Massáchusetts act, 303.
"support" by Wisconsin commission, 231, 234.
"vessel" in British act, 577.
"wilful misconduct," 171, 231.
"wilful negligence" under New Jersey act, 255.
"workman," 56, 124, 290, 292, 432, 572.
"workshop" in Washington act, 124.

DELAY,
prejudice by delay of service of notice of injury, 553.

DEMAND,
jury trial on appeal under Illinois act, 351.
medical examination in attorney's office, 557.
quarterly payment under Washington act, 138.
workman for presence of personal physician, 556.

DENMARK,
schedule, 105.

DEPARTMENT OF COMMERCE AND LABOR,
determination of questions under Federal act, 383.
medical examination under Federal act, 381.

DEPARTMENT OF LABOR,
report of accidents under New Jersey act, 258.

DEPARTMENT OF MINES AND FORESTRY,
employés protected by Federal act, 380.

DEPENDENTS,
See CHILDREN; GRANDCHILDREN; GRANDPARENTS; ILLEGITIMATES; STEPBROTHERS AND SISTERS.
actual, under New Jersey act, 255.
aliens, 500.
children, 227, 263, 303.
compensation under various American acts, 56, 152, 171, 227, 263, 292, 375a.
death of workman under compensation not bar to claim of dependent, 509.

[*References are to Sections.*]

DEPENDENTS—*Continued.*
defined, 124, 234, 290, 292, 303, 413, 496, 577.
husband and wife under California act, 203, 263.
illegitimate children, 503, 544.
members of family under Kansas act, 292.
mentally defective dependents under Rhode Island act, 367.
mother of injured child dependent though supported by husband, 505.
mother total dependent of one of several sons, 497.
necessity of appointment of administrator of dependent, 509.
necessity that they be members of family of deceased, 355, 367.
not fatal that dependent able to maintain himself, 496.
parents, 499.
partial dependent under Nevada act, 290.
paupers, 501.
posthumous children, 502.
presumption of death from lapse of time, 507.
procedure for apportionment, 564.
proof under Ohio act, 217.
question determined by status at time of death under California act, 263.
status at time of accident under Wisconsin act, 227.
question not affected by the fact of receipt of money, 496.
right of representative of deceased, 508.
settlement of question under British act, 577.
total and partial dependents of same workman, 498.
under California act, 263.
Federal act, 378.
Illinois act, 326.
Maryland act, 376a.
Massachusetts act, 303.
Michigan act, 355.
New Hampshire act, 296.
Rhode Island act, 367.
Wisconsin act, 227.
where one is dependent on more than one injured workman, 504.
wife separated from husband, 506.

DEPOSIT,
Ohio insurance fund, 171.
Maryland insurance fund, 376a.

DEPOSITIONS,
power of Ohio officers to take, under Ohio law, 171.
taken outside jurisdiction of Ohio board, 171.
use in hearings under California act, 265.
under Ohio act, 174.
under Wisconsin act, 235.

[*References are to Sections.*]

DEPUTIES,
under Washington act, 124.

DERRICKS,
operators protected by New York act, 56.
by Arizona act, 375a.

DIMINUTION,
disability under Washington act, 124.

DIRECTIONS,
authority of Washington board to promulgate, 128-130.

DISABILITY,
certificate of continuing under Federal act, 381.
certificate under Federal act, 390.
compensation under Austrian schedule, 101.
Belgian schedule, 102.
British act, 577.
British Columbia schedule, 103.
British schedule, 109.
Cape of Good Hope schedule, 104.
Danish schedule, 105.
Finland schedule, 106.
French schedule, 107.
German schedule, 108.
Greek schedule, 110.
Hungarian schedule, 111.
Illinois act, 326.
Italian schedule, 112.
Luxemburg schedule, 113.
Montana act, 64.
Netherland schedule, 114.
Nevada act, 290.
Norwegian schedule, 116.
New Zealand schedule, 115.
Queensland schedule, 117.
Russian schedule, 118.
South Australian schedule, 119.
Spanish schedule, 121.
Swedish schedule, 120.
West Australian schedule, 122.
medical and hospital services under Illinois act, 326,
notice of continuing disability under Federal act, 381.
opinion as to termination under Federal act, 381.
procedure under Federal act, 385.
prolonged by failure to take exercise, 523.
report of termination under Federal act, 381, 387.
when compensation begins under various American statutes, 414.

[*References are to Sections.*]

DISAGREEMENTS,
report to secretary of commerce under Federal act, 381.

DISAPPROVAL,
claims under Federal act, 381.

DISBURSEMENT,
funds under Washington act, 124.
first aid fund, 126.
Michigan accident fund, 355.
Ohio insurance fund, 171.

DISCHARGE,
incapacitated person for misconduct, 470.
injury received on premises after discharge, 491.
right where compromise calls for employment of injured workman, 516.
whether employé in course of employment while removing tools, 479.

DISCONTINUANCE,
compensation under Federal act, 381, 392.

DISEASE,
See Occupational Diseases.
acceleration by accident, 463.
contracted in course of employment, 398.
without injury under Federal act, 398.

DISFIGUREMENT,
compensation under Illinois act, 326.

DISMISSAL,
See Discharge.
incapacitated person for misconduct, 470.
injury received on premises after discharge of servant, 491.
whether dismissed employé in course of employment while removing tools, 479.

DISPUTES,
See Arbitration; Settlement.
amount of compensation under Nevada act, 290.
arbitration under Illinois act, 326, 347.
Michigan act, 355.
between commissioner and employer under Michigan act, 355.
controversies involving sick insurance under German code, 1911, 601.
method of settlement under California act, 263.
necessity to give arbitrator jurisdiction under British act, 547.
of claims under New Jersey act, 255.

[*References are to Sections.*]

DISPUTES—*Continued.*
procedure under New Jersey act, 255.
settlement by arbitrator under Kansas act, 292.
settlement under British act, 577.
under Arizona act, 375a.
California act, 263.
Federal act, 381.
Massachusetts act, 303.
Rhode Island act, 367.
various foreign schedules, 101-120.
submission under Wisconsin commission, 227.

DISTRESS COMMITTEE,
as employer, 511.

DISTRIBUTION,
among dependents under New Jersey act, 255.
compensation to dependents under Illinois act, 326.
funds in case of repeal of Washington act, 124.
funds on repeal of Michigan act, 355.

DIVIDENDS,
employés' insurance association, 303.

DIVORCE,
dependency where wife separated from husband, 506.
effect on right to compensation under Washington act, 124.

DOCKS,
hazardous employment under Washington act, 124.

DOCKETS,
Ohio board of awards, 174.

DOCUMENTS,
See Books.
power of Ohio board to require production, 171.

DOMESTIC SERVANTS,
beneficiaries of sick insurance under German code, 1911, 601.
excepted in Michigan act, 355.

DRAINAGE,
instructions under Washington act, 141.

DREDGES,
classification under Washington act, 124.
hazardous employment under Washington act, 124.

DROWNING,
inference of accidental, 447.

[*References are to Sections.*]

DRUGGIST,
cost bill under Ohio act, 188, 195, 202, 212, 223.

DRUNKENNESS,
See INTOXICATION.

DUE PROCESS,
administration of compensation act, 97.
meaning of term, 97, 172.
not infringed by Massachusetts act, 307.
Ohio act, 172.
Washington act, 127.
Wisconsin act, 228.
taking of property under New York compensation act, 56.
whether compensation laws infringe, 76.

DYNAMITE,
See EXPLOSIVES.
covered by New Hampshire act, 296.
workers covered by New York act, 56.

E

EARNINGS,
See AVERAGE WEEKLY EARNINGS, COMPENSATION.
computation under Kansas act, 292.
Illinois act, 326.
Rhode Island act, 367.
definition in German code, 1911, 601.

ECONOMICS.
basis of compensation and insurance laws, 33-53.
results of accidents under old system, 44.
specific provisions against insecurity of workmen, 52.

ELECTION,
duty of electing employer to post notice, 355.
employé under California act, 274.
Arizona act, 375a.
Ohio act, 171.
Illinois act, 329.
Kansas act, 292.
Maryland act, 375a.
Michigan act, 355.
Rhode Island act, 367.
Wisconsin act, 245.
employer under California act, 263.
Kansas act, 292, 294.
Michigan act, 355.
New Hampshire act, 296.
Ohio act, 171.

[*References are to Sections.*]

ELECTION—*Continued.*
Rhode Island act, 367.
Wisconsin act, 227.
mode of election under Michigan act, 355.
notice of non-election by employé under Illinois act, 326.
Michigan act, 361-362.
Wisconsin act, 240, 246.
presumption of election by Illinois employer, 326.
record under Michigan act, 355.

ELECTION OF REMEDIES,
compensation and assignment of claim under Washington act, 164, 165.
effect of filing claim under Massachusetts act, 303.
nature of obligation imposed by insurance laws, 67.
under British act, 546, 575, 577.
Kansas act, 292.
Massachusetts act. 303.
New Hampshire act, 296.
New York act, 56.
various American acts, 422.
under Ohio act where employer guilty of wilful negligence, 171.
whether act may be optional, 99.

ELECTIVE ADOPTION,
provisions of Washington act, 137.

ELECTIVE COMPENSATION,
under New Jersey act, 255.

ELECTRICAL WORK,
defined in Kansas act, 292.

ELECTRICITY,
employment covered by Illinois act, 326.
Under Arizona act, 375a.
Kansas act, 292.
New York act, 56.
Nevada act, 290.
New Hampshire act, 296.

ELECTRIC LIGHT PLANTS,
Classification of light plants under Washington act, 124.
factories under Kansas act, 292.
hazardous employment under Washington act, 124.

ELECTROTYPING,
hazardous employment under Washington act, 124.

[*References are to Sections.*]

ELEMENTS,
whether injury from elements accidental, 449.

ELEVATORS,
Classification under Washington act, 124.
hazardous employment under Washington act, 124.
operation covered by Nevada act, 290.
Arizona act, 375a.
New York act, 56.
power to regulate rates, 93.

EMERGENCIES,
acts in emergencies as within scope of employment, 485.

EMINENT DOMAIN,
right to trial by jury, 97.
similarity of attributes of taxation, 85.
whether compensation laws amount to taking of property, 76.

EMPEROR WILLIAM I,
insurance message, 16.

EMPLOYERS,
See ELECTION.
catalogue in Michigan act, 355.
certificate and oath under Ohio act, 189, 193, 200, 210, 221.
declaration under New Hampshire act, 299.
defined, 56.
defined in British act, 577.
definitions in various American statutes, 124, 227, 255, 263, 290, 292, 303, 367, 404, 418, 511.
duty to keep on hand supply of blanks, under Ohio act, 171.
duty to verify answers to inquiries of Ohio board, 171.
immaterial that he is a non-resident, 124.
letter of instructions under Washington act, 142.
notice required under various American statutes, 179, 239, 240, 241, 310, 407.
report of accident under New Jersey act, 260.
right to contract for insurance under Maryland act, 376.
rules and directions by Washington commission, 129.
validity of compensation acts as to employer, 71.

EMPLOYERS' LIABILITY COMMISSION,
creation under New Jersey act, 257.

EMPLOYERS' LIABILITY LAWS,
distinguishing characteristics, 2, 3.
distinction between common law and liability acts, 69.

[*References are to Sections.*]

EMPLOYES,
See GOVERNMENT EMPLOYES.
covered by American acts, 290, 355, 406.
claim of common law right under Rhode Island act, 371.
defined in British act, 572.
California act, 263.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
Washington act, 124.
Wisconsin act, 227.
letter of instructions under Washington act, 142.
notice required under various American statutes, 245, 246, 274, 326, 407, 410.
presumption of acceptance under Kansas act, 292.
protected under German code, 1911, 598.
public employment under California act, 263.
right to contract for insurance under Maryland act, 376a.
rules and directions by Washington commission, 130.
term excludes members of employer's family, 445.
temporary lending or hiring, 441.
validity of compensation acts as to employés, 72.
who are workmen within meaning of statutes, 432-445.

EMPLOYES' INSURANCE ASSOCIATION,
appointment of board of directors under Massachusetts act, 303.
assessments, 303.
authority to make and enforce rules and regulations, 303.
board of directors, 303.
constitutionality of act, 307.
creation under Massachusetts act, 303.
dividends, 303.
duty to notify board of termination of employer's insurance, 308.
effect of employer ceasing to be a subscriber, 303.
expenses, 303.
insurance association license, 303.
notice of change of insurer, 308.
notice that employer has ceased to be a subscriber, 314.
notice to subscribers under Massachusetts act, 303.
officers, 303.
policies under Massachusetts act, 303.
premiums, 303.
quorum under Massachusetts act, 303.
reports of accident, 308.

[*References are to Sections.*]

EMPLOYES' INSURANCE ASSOCIATION—*Continued.*
statute authorizing advances from state treasury, 306.
subject to investigation by state, 303.
under Maryland act, 376a.

EMPLOYMENT,
construed by Wisconsin commission, 230.
covered by various American acts, 403.
defined by Illinois act, 326.
New York act, 56.
effect of unauthorized employment, 443.
subject to insurance under German code, 1911, 601.
when commences, 486.

ENDORSEMENT,
claims under Federal act, 381.

ENGINEERING WORK,
hazardous employment under Washington act, 124.
operation covered by Kansas act, 292.

EPILEPSY,
injury while undergoing fit, 460.

EQUAL PROTECTION OF LAWS,
application of principle under Montana statute, 62.
satisfied by Washington act, 127.
whether condition observed in compensation laws, 94.

EQUALITY AND UNIFORMITY,
whether conditions met in compensation acts, 91.

ESTOPPEL,
employé to sue under Ohio act, 171.
under British act, 546.

ETHICS,
ethical basis of insurance system, 32.

EVIDENCE,
See BURDEN OF PROOF; DEPOSITIONS; PRESUMPTIONS.
admissible at hearing under California act, 263.
admissibility of declaration of injured workman, 560.
circumstantial evidence to prove accident, 447.
conclusiveness of certificate of medical referee, 561.
copies of evidence taken by stenographer under Ohio law, 171.
inference that injury is result of accident, 447.
medical examination under Kansas act, 292.
presumption of acceptance of California act, 263.
Illinois act, 326.
Kansas act, 292.

[*References are to Sections.*]

EVIDENCE—*Continued.*
presumption of death from lapse of time, 507.
rules governing proof of claims under Ohio act, 174.
rules on hearing before Ohio board, 171.
testimony by court physician under Kansas act, 292.
use of depositions under California act, 265.

EXAGGERATION,
See SIMILATION.
effect on compensation, 522.

EXAMINERS,
authority of California board to employ, 263.
appointment under state acts, 171, 227, 235, 265.

EXCUSE,
failure to give timely notice under British act, 553.
ignorance not an excuse for failure to give notice, 553.

EXAMINATION,
See MEDICAL EXAMINATION.

EXCEPTIONS,
at hearings under California act, 265.

EXECUTION,
See ATTACHMENTS.
levy against awards, 171, 255, 292, 326.

EXECUTIVE RECOMMENDATIONS,
compensation law by President Roosevelt, 13.

EXEMPTIONS,
validity of contracts for exemption under various American acts, 56, 64, 124, 171, 227, 255, 263, 290, 326, 355, 428, 514.
British act, 577.
Federal act, 378.
Maryland act, 376a.
compulsory insurance under German laws prior to 1911, 593.

EXERCISE,
disability prolonged by failure to take, 523.

EXISTING ACTIONS,
not affected by Michigan act, 355.

EXPENSES,
See ADMINISTRATION; FUNERAL EXPENSES; INSURANCE; MEDICAL ATTENDANCE; NURSING.
administration of State acts, 171, 227.
last sickness under New Jersey act, 255.
New Jersey commission, 257.
employés' insurance association, 303.

[*References are to Sections.*]

EXPERT EXAMINERS,
authority to employ, 171, 263.

EXPLOSIVES,
manufacture covered by Illinois act, 326.
Kansas act, 292.
New Hampshire act, 296.
Nevada act, 290.
New York act 56.
schedule of compensation for powder works under Washington act, 124.
violation of rules as to position of workman, 475.

EX-PRESIDENT ROOSEVELT,
views on constitutionality of New York act, 58.

EXTENSION,
See CONTINUANCE.
hearings, 235, 265.

EXTENSION LAWS,
Germany, 582.

EXTRA-HAZARDOUS EMPLOYMENT,
covered by Illinois act, 326.
Montana act, 61, 64.
Nevada act, 290.
New York act, 56.
enumeration in Washington act, 124.

EXTRATERRITORIAL EFFECT,
compensation laws, 465.

EYES,
See LOSS OF SIGHT.
compensation for loss under various State acts, 64, 255, 290, 303, 355, 367.
loss of sight permanent disability under Illinois act, 326.
loss of sight as total or partial disability, 520.
reduction of compensation by reason of impairment, 531.
whether injuries accidental, 456.

F

FACE,
compensation for disfigurement under Illinois act, 326.

FACTORIES,
defined in Kansas act, 292.
Washington act, 124.
employment covered by New Hampshire act, 296.

[*References are to Sections.*]

FACTORIES—*Continued.*
posting directions to employés under Washington act, 131.
operation covered by Kansas act, 292.
schedule of compensation under Washington act, 124.

FACTORY ACTS,
effect of breach, 513.
Ohio, 173.

FAMILY,
exclusion of members from benefits of acts, 445.

FARM WORKERS,
See Agricultural Workers.
under British act, 436.

FATAL ACCIDENT,
See Accidents; Death.
statistics showing number receiving settlement, 41.

FAULT,
See Negligence.
ground of recovery under common and liability laws, 1-4.
question in prevention of accidents, 36.

FEDERAL EMPLOYES' COMPENSATION ACT,
construction, 396-399.
enactment, 5.
formal procedure, 382.
forms and procedure, 383-399.
nature and scope, 377.
rules and regulations, 381.
text of act of 1908, 378.
text of act of 1911, 379.
text of act of 1912, 380.

FEE BILL,
druggist under Ohio act, 202.
medical under Ohio act, 196, 203, 213, 224.
physician under Ohio act, 187, 194, 201, 211, 222.

FEES,
See Costs.
arbitration under Massachusetts act 303.
attorneys under various American acts, 375a, 430.
contingent under Rhode Island act, 367.
medical examination, 355, 375a.
medical witnesses under Washington act, 124.
on review of award under California act, 263.

[*References are to Sections.*]

FEES—*Continued.*
service of subpoenas under Ohio act, 171.
surgeons and dentists under British act, 577.
under British act, 571.
under German code, 1911, 601.
under Wisconsin act, 227.
under Massachusetts act, 303.
witnesses under Massachusetts act, 303.

FEET,
compensation for loss under Massachusetts act, 303.
Maryland act, 376a.
Michigan act, 355.
Nevada act, 290.
New Jersey act, 255.
Rhode Island act, 367.
loss total disability under Illinois act, 326.

FELLOW SERVANT RULE,
deprivation of defense by compensation acts, 71.
California, 263.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Nevada, 290.
New Jersey act, 255.
Ohio act, 171.
Rhode Island act, 367.
various American statutes, 401.
Wisconsin act, 227.
indemnity for injury, 462.
judicial origin, 57.
rule of common law, 1.
right of state to abrogate defense, 307.

FERRIES,
hazardous employment under Washington act, 124.

FICHTE,
influence on insurance laws, 21.

FILING,
awards under Kansas act, 292.
notice of filing claim under California act, 277.

FINAL ADJUSTMENT,
agreement under Rhode Island act, 374.
voucher under Washington act, 163.

[*References are to Sections.*]

FINDINGS,
by Wisconsin commission, 227.
conclusiveness under Michigan act, 355.
Nevada act, 290.
duty of California board to make and file, 263.
entry by Wisconsin commission, 253.
grounds for setting aside under California act, 263.
modification by Ohio board, 171.

FINES,
under Montana act, 64.

FINGERS,
compensation for loss under Massachusetts act, 303.
Michigan act, 355.
New Jersey act, 255.
Rhode Island act, 367.

FINLAND,
schedule, 105.

FIREMEN'S FUND CASES,
analogy to compensation acts, 82.

FIREWORKS,
schedule of compensation under Washington act, 124.

FIRST AID,
compensation under Illinois act, 326.

FIRST AID FUND,
proposed amendment to Washington act, 126.

FIRST AID TREATMENT,
under Federal act, 381.

FISCAL YEAR,
under German code, 1911, 601.

FISHERMEN,
covered by German code, 1911, 598.

FISHING VESSELS,
work on shares excluded from compensation acts, 434.

FITS,
injury while undergoing epileptic fit, 460.

FLOUR MILLS,
factories under Kansas act, 292.

FOOT BALL PLAYERS,
whether covered by acts, 438.

[*References are to Sections.*]

FORBIDDEN ACT,
injury while doing excluded, 475.

FOREIGN COUNTRIES,
summary of compensation laws, 100-122.

FOREMAN,
not workmen where partner, 433.

FORESTRY,
employés of department protected by Federal act, 380.

FORFEITURE,
benefits under Montana act, 64.
insurance under Maryland act, 376a.

FORMAL PROCEDURE,
under California act, 266.
Federal act, 382.
Kansas act, 293.
Maryland act, 376b.
Massachusetts act, 309.
Michigan act, 358.
Ohio act, 185, 191, 198.
Rhode Island act, 369.
Washington act, 134.
Wisconsin act, 237.

FORMS,
accident experience under Ohio act, 178.
accident report of casualty company under Wisconsin act, 249.
admission of service under Wisconsin act, 252.
affidavit of claim of dependents under Washington act, 154.
affidavit of claim under Washington act, 153.
agreements and award under Kansas act, 292.
agreement for redeeming liability by payment of lump sum under Massachusetts act, 313.
agreement of final adjustment under Rhode Island act, 374.
agreement where payments continue under Rhode Island act, 375.
agreement in regard to Massachusetts act, 317.
alphabetical list of industries with rates under Washington act, 140.
application for adjustment of claim under Wisconsin act, 248.
application and notices by employers under Ohio act, 176.
application for classification of industry and for premium under Ohio act, 177.
application for money to pay medical and hospital services with compensation under Ohio act, 186, 192, 199, 206.

[*References are to Sections.*]

FORMS—*Continued.*
application for money paid for medical and funeral expenses under Ohio act, 216.
application for review of claim before full board under Massachusetts act, 321.
bond for appeal from award under Illinois act, 350.
blanks to be furnished under Federal act, 381.
burial expense voucher under Washington act, 162.
certificate and oath of lay witness under Ohio act, 204.
claim for death under Federal act, 394.
certificate of disability under Federal act, 390.
claims under Federal act, 384, 389.
claim under Michigan act, 363.
claim for compensation for insurance under Massachusetts act, 318.
contractor's statement of wages, 134.
certificate and oath of lay witness under Ohio act, 225.
certificate and proof of death by lay witness under Ohio act, 219.
certificate and oath of lay witness under Ohio act, 214.
certificate by lay witness to prove death under Ohio act, 208.
certificate and oath of lay witness under Ohio act, 197, 214.
death under Federal act, 388.
demand for first quarterly payment under Washington act, 138.
demand for jury under Illinois act, 351.
dependents' claim for compensation under Washington act, 152.
druggists' costs under Ohio act, 188, 195, 202, 212, 223.
duty of boards to formulate and furnish, 171, 227, 263, 355, 382.
duty of insurance commissioner to formulate under Maryland act, 376a.
duty of court to prescribe under Rhode Island act, 367.
duty of employers to fill under Ohio act, 171.
election of employer under Kansas act, 294.
elective adoption of Washington act, 137.
election to receive compensation under Washington act, 164, 165.
employer's acceptance under California act, 268.
employer's certificate and oath of lay witness under Ohio act, 190.
employer's certificate and oath under Ohio act, 189, 193, 200, 210, 221.
employer's first report of accident under California act, 271.
employer's notice of election not to accept under Illinois act, 329.
employer's notice of intention to discontinue compensation payments under Illinois act, 330.

[*References are to Sections.*]

FORMS—*Continued.*
employer's notice of withdrawal under Wisconsin act, 239.
employer's notice to Illinois employés of intention to discontinue compensation payments, 331.
employer's notice of withdrawal under Michigan act, 360.
employer's petition to make lump sum payment instead of instalment payments, 345.
employer's petition for guardian or administrator, 346.
employer's report of accident under Washington act, 143.
employer's supplemental report of accident under California act, 272.
employer's withdrawal under California act, 269.
employer's written acceptance under Wisconsin act, 238.
employé's notice of injury and claim under Illinois act, 334.
employé's petition for lump sum payment under Illinois act, 342-343.
final settlement voucher under Washington act, 163.
first accident report of casualty company under California act, 286.
first notice of injury under Ohio act, 183.
first notice of death under Ohio act, 184.
first report of accident under Michigan act, 364.
first report of accident under Wisconsin act, 242.
for employés under California act, 273.
formulation by commissioner of labor under New Hampshire act, 296.
furnished free under Ohio act, 171.
hearings before California board, 276.
immediate report of injury under Federal act, 386.
in cases of death with dependents under Ohio act, 215-225.
in cases of death without dependents under Ohio act, 205-214.
instructions to counties and municipal corporations under Washington act, 141.
instructions to injured workmen in Washington, 145.
letter of instructions to employers and employés under Washington act, 142.
medical fee bill and hospital charges under Ohio act, 196, 203, 213, 224.
money to pay medical and funeral expenses under Ohio act, 205.
monthly statement under Washington act, 139.
monthly statement of city under Washington act, 135.
notice assessing costs of proceedings before arbitrators under Massachusetts act, 322.
notice by employé to employer for compensation under California act, 275.

[*References are to Sections.*]

FORMS—*Continued.*
notice by employé of election to be subject to Wisconsin act, 245.
notice by parent or guardian of claim of right under Rhode Island act, 372.
notice by employé of his refusal to accept under Illinois act, 332.
notice by employé of claim of common law right under Rhode Island act, 371.
notice by employer-to commission of compliance with Wisconsin act, 241.
notice by employé of non-election, 274.
notice of employer's acceptance under Rhode Island act, 370.
notice of intention to file petition for lump sum payment under Illinois act, 336.
notice of election by Michigan employé, 361, 362.
notice of right under Federal act, 396.
notice of waiver of rights of common law under Massachusetts act, 312.
notice of assessment under Washington act, 136.
notice of claim of common law rights under Massachusetts act, 311.
notice of hearing of application for adjustment of claim, 278.
notice of hearing under Wisconsin act, 250.
notice of employer to employe under Ohio act, 179.
notice of hearing of application for adjustment of claim, 278.
notice of hearing under Wisconsin act, 250.
notice of employer to employé under Ohio act, 179.
notice of insurance under Massachusetts act, 319.
notice of right to compensation under Federal act, 383.
notice of injury under Massachusetts act, 319.
notice of filing of application for adjustment of claim, 277.
notice of entry of findings and award under Wisconsin act, 253.
notice of employé of non-election under Wisconsin act, 246.
notice that employer has accepted California act, 270.
notice that employer has ceased to be a subscriber under Massachusetts act, 314.
notice that employé elects to become subject to Wisconsin act, 240.
notice to be posted under Washington act, 131.
notice to employer of claim for injury under Wisconsin act, 247.
notice to employer of injury under New Jersey act, 255.
notice to employé under Massachusetts act, 310.

[*References are to Sections.*]

FORMS—*Continued.*
notice to employés refusing examination under Massachusetts act, 316.
notice to employer of accident causing death under Illinois act, 335.
notice to Massachusetts board that injured employé has refused to submit to examination, 315.
notice to employés of acceptance of Michigan act, 357.
notice to doctor to file report under California act, 284.
official safety bulletin of Washington, 166.
partial payment voucher under Washington act, 158, 159.
pension voucher under Washington act, 160, 161.
petition by administrator for lump sum payment under Illinois act, 344.
petition for appeal from award under Illinois act, 349.
petition for appointment of neutral physician under Illinois act, 352.
petition for review of agreement under award under Illinois act, 353.
petition for third arbitrator under Illinois act, 347.
petition under Rhode Island act, 374b.
physician's certificate and proof of death under Ohio act, 209, 220.
physician's fee bill under Ohio act, 187, 194, 201, 211, 222.
physician's report of accident under California act, 281.
prescribed by New Jersey act, 260, 261.
procedure for procuring medical and hospital services without compensation under Ohio act, 185.
procedure on notices under Ohio act, 182.
procedure to obtain compensation in case of permanent total disability under Ohio act, 198.
procedure to obtain compensation and money to pay medical and funeral expenses under Ohio act, 215.
procedure to obtain money for medical and hospital services under Ohio act, 191.
proof of death by undertaker under Washington act, 151.
proof of death by physician under Washington act, 150.
proof of dependents under Ohio act, 217.
receipt on account of compensation, 323.
report of actual pay roll under Washington act, 134.
report of arbitrator under Illinois act, 348.
report of attending surgeon in Washington, 146.
report of committee on arbitration under Massachusetts act, 320.
report of discontinuance of payment under Federal act, 392.
report of fatal accident under Illinois act, 337.

[*References are to Sections.*]

FORMS—*Continued.*
report of medical and surgical examinations under Illinois act, 341.
report of non-fatal accident under Illinois act, 339.
report of termination of disability under Federal act, 387.
report of witnesses under Washington act, 148.
request for fuller report of accident, 283.
request for medical examination under Federal act, 391.
request for report of accident under California act, 282.
review of operation of Washington act, 166.
settlement receipt under Massachusetts act, 324.
special report of surgeon under Washington act, 149.
statement of compensation to be posted under Illinois act, 333.
statistical reports on operation of Washington act, 165.
subpoena under California act, 279.
subpoena under Wisconsin act, 251.
summary and award under Washington act, 157.
supplemental accident report of casualty company, 287.
supplementary report of accident under Michigan act, 365.
supplementary report of accident under Wisconsin act, 243.
supplementary report of fatal accident under Illinois act, 338.
supplementary report of non-fatal accident after recovery under Illinois act, 340.
supplementary report under Ohio act, 178.
surgical report under Washington act, 147.
undertaker's certificate of death and cost bill under Ohio act, 207, 218.
used by casualty companies under California act, 285.
used by employers under California act, 267.
used by physicians under California act, 280.
where disability temporary partial, temporary total, and permanent partial under Ohio act, 191-197.
where employé not incapacitated to exceed seven days under Ohio act, 185-190.
workman's claim for compensation under Washington act, 144.
written acceptance of Michigan act, 359.

FORTS,
employés protected by Federal act, 378.

FOUNDRIES,
employments covered by New Hampshire act, 296.
factory under Kansas act, 292.
hazardous employment under Washington act, 124.

FRACTURE,
skull a total disability under Illinois act, 326.

[*References are to Sections.*]

FRANCE,
schedule, 107.

FRAUD,
agreement between employé and employer under Illinois act, 326.
as ground for setting aside under Kansas act, 292.
effect of compromise of claim, 516.
effect on release, 546.
ground of review of findings of Wisconsin commission, 227.
ground for setting aside release under Kansas act, 292.
misrepresentation of workman at time of entering employment under British act, 577.
vitiates award under California act, 263.

FRAUDULENT CLAIMS,
under Montana act, 64.

FREDERICK THE GREAT,
influence on laws, 15.

FROST BITES,
whether injury accidental, 449.

FUNDAMENTAL LAWS,
German insurance, 582.

FUNDS,
distribution of funds on repeal of Washington act, 124.

FULLERTON,
decision upholding Washington act, 127.

FUNERAL BENEFITS,
under German code 1911, 597.

FUNERAL EXPENSES,
application for money to pay under Ohio act, 205, 206, 216.
burial expense vouchers under Washington act, 162.
burial money under German law, 581.
procedure to obtain compensation and money to pay under Ohio act, 215.
under British act, 577.
Arizona act, 375a.
Kansas act, 292.
Maryland act, 376a.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
New Hampshire act, 296.

[*References are to Sections.*]

FUNERAL EXPENSES—*Continued.*
New Jersey act, 255.
Ohio act, 171.
Rhode Island act, 367.
under various American acts, 412.
voucher under Washington act, 162.

G

GARNISHMENT,
claim not subject to levy in Illinois, 326.
Michigan, 355.
GAS,
employment in gas plant covered by Kansas act, 292.
covered by Illinois act, 326.
whether injury from inhalation an accident, 455.
GAS WORKS,
classification under Washington act, 124.
hazardous employment under Washington act, 124.
GERMANY,
analysis of laws by Dr. Laband, 68.
analysis of statistics, 46.
basis of compulsory insurance, 27.
characteristics of insurance legislation, 19.
classification of causes of accidents, 47.
conditions which induced consideration of subject, 20.
historical review of German plan of insurance, 15-17.
industrial insurance acts, 17.
influence of Fichte and Hegel, 21.
insurance laws prior to 1911, 579-593.
introduction to code of 1911, 595.
miners societies, 31.
mother of state insurance, 26.
pioneer influence on subject, 8.
relation of insurance law to socialism, 29.
schedule, 108.
sick insurance prior to 1911, 580, 581.
statistics of fault in cases of accidents, 36.
statistics of causes of accidents, 46.
statistical experience of compulsory insurance laws, 35.
views of Schaeffle on compulsory insurance, 24.
views of Sismondi, 22.
views of Wagner on insurance laws, 25.
views of Winkelblech on insurance laws, 23.
GERMAN CODE 1911,
accident insurance, 598, 601.
analysis, 600.

[*References are to Sections.*]

GERMAN CODE 1911—*Continued.*
benefits, 601.
carriers of imperial insurance, 601.
fees and stamp taxes, 601.
general features, 596.
introduction, 595.
invalidity and survivors' insurance, 599.
legal assistance, 601.
local wage rate, 601.
medical treatment, 601.
notifications, 601.
place of employment, 601.
prohibitions and penalties, 601.
scope of imperial insurance, 601.
sick insurance, 597, 601.
time limits, 601.

GLASS WORKERS DISEASES,
under British act, 577.

GOVERNMENT EMPLOYES,
applicability of Wisconsin act, 227.
Federal compensation act, 377-399.
compensation under Belgian schedule, 102.
Austrian schedule, 101.
British Columbia schedule, 103.
British schedule, 109.
California act, 263.
Cape of Good Hope schedule, 104.
Danish schedule, 105.
Finland schedule, 106.
French schedule, 107.
German schedule, 108.
Greek schedule, 110.
Hungarian schedule, 111.
Italian schedule, 112.
Luxemburg schedule, 113.
Michigan act, 355.
Netherlands schedule, 114.
New Zealand schedule, 115.
Norwegian schedule, 116.
Russian schedule, 118.
South Australian schedules, 119.
Spanish schedule, 121.
Swedish schedule, 120.
West Australian schedule, 122.

[*References are to Sections.*]

GRATUITIES,
consideration in determining weekly earnings, 528.

GRADE OF EMPLOYMENT,
used to determine amount of weekly earnings, 526.

GRADUAL PARALYSIS,
whether accidental, 459.

GRANDCHILDREN,
dependents under British act, 577.
Kansas act, 292.
Nevada act, 290.
New Jersey act, 255.

GRANDPARENTS,
dependents under British act, 577.
Kansas act, 292.
New Jersey act, 255.

GREAT BRITAIN,
See BRITISH COMPENSATION ACT.
compensation legislation, 18.
enactment of compensation act, 8.
schedules, 109.

GREECE,
schedule, 110.

GROSS NEGLIGENCE,
employer under California act, 263.
Kansas act, 292.

GUARDIAN,
employé mentally ncompetent under Massachusetts act, 303.
for incompetent under Illinois act, 326.
minors and incompetent under Kansas act, 292.
Arizona act, 375a.
Michigan act, 355.
New Hampshire act, 296.
notice of claim of common law right under Rhode Island act, 372.
petition for appointment under Illinois act, 346.

GUARDIAN AD LITEM,
for incompetent dependents, 552.
under Rhode Island act, 367.

GUILDS,
influence on insurance idea, 30.

[*References are to Sections.*]

GUILDS' SICK CLUB,
under German laws prior to 1911, 581.

GUILD SICK FUNDS,
under German code 1911, 601.

H

HALL,
argument for constitutionality of under New York act, 58.

HANDS,
compensation for loss or injury under Illinois act, 326.
Maryland act, 376a.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
New Jersey act, 255.
Rhode Island act, 367.
loss permanent disability under Illinois act, 326.

HARRIS,
translator of German code of 1911, 595.

HAZARDOUS OCCUPATIONS,
See EXTRA HAZARDOUS OCCUPATIONS.
covered by Illinois act, 326.
New York act, 56.
future enumeration under Washington act, 124.
under Illinois act, 326.
Arizona act, 375a.
Kansas act, 292.
Nevada act, 290.
New Hampshire act, 296.

HEARING,
See TRIAL; ARBITRATION; EVIDENCE.
arbitration under Kansas act, 292.
by courts under New Jersey act, 255.
compensation dispute under Massachusetts act, 303.
continuances under Ohio act, 174.
duty of California Board to fix time, 263.
employment of stenographer under California act, 265.
exceptions under California act, 265.
forms under California act, 276.
"hearing docket" under Ohio act, 174.
notice of filing application for adjustment under California act, 277, 278.
notice under Wisconsin statute, 227, 250.
procedure before Ohio Board, 171.
right to make award terminate at fixed date, 565.

[*References are to Sections.*]

HEARING—*Continued.*
submission to medical referee, 562.
subpoena of witnesses under California act, 279.
testimony under Ohio act, 174.
use of depositions under California act, 265.
use of depositions under Ohio act, 174.
under Nevada act, 290.

HEART,
whether disease accidental, 457.

HEAT,
whether injury accidental, 449.

HEAT STROKE,
whether injury accidental, 449.

HEGEL,
influence on insurance laws, 21.

HELPER,
deduction of sums paid helper, 529.

HENDERSON,
description of German insurance system, 28.

HERNIA,
proof to entitle workman to compensation under Washington act, 124.

HISTORICAL REVIEW,
development of insurance and compensation laws, 7-14.

HOISTING APPARATUS,
covered by Nevada act, 290.
New Hampshire act,

HOLIDAYS,
deduction in calculation of weekly earnings, 527.

HOLLAND,
schedule, 114.

HOME WORKING INDUSTRIES,
covered by German code 1911, 601.

HONORARY OFFICES,
under German code, 1911, 601.

HOSPITALS,
right to admittance under German law, 581.

[*References are to Sections.*]

HOSPITAL CHARGES,
application for money to pay under Ohio act, 205, 206.
fee bill under Ohio act, 196.
deduction under British act, 535.
under Ohio act, 203, 213, 224.
procedure to obtain compensation and money to pay under Ohio act, 215.

HOSPITAL SERVICES,
application for money to pay under Ohio act, 186, 192, 199, 216.
compensation under Illinois act, 326.
Massachusetts act, 303.
Michigan act, 355.
during waiting period under New Jersey act, 255.
formal procedure for procuring under Ohio act, 185.
formal proceedings to obtain money to pay under Ohio act, 191.
furnished by employer under Rhode Island act, 367.
payment from Ohio insurance fund, 171.

HOSPITAL TREATMENT,
allowance under German code 1911, 597.
authority of Washington board to supervise, 124.

HOUSE MOVING,
classification under Washington act, 124.

HUNGARY,
schedule, 111.

HUSBAND AND WIFE,
dependents under British act, 577.
California act, 263.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Nevada act, 290.
New Hampshire act, 296.
Rhode Island act, 367.
Wisconsin act, 227.

I

ICE CUTTING,
protected by German code 1911, 598.

IGNORANCE,
not an excuse for failure to give notice, 553.

ILLEGITIMATES,
dependents, 503, 577.
amount of compensation, 544.

[*References are to Sections.*]

ILLINOIS,
administration and procedure under act, 326, 327.
creation of State bureau of labor statistics, 326.
enactment of compensation law, 5.
forms used in administration of act, 328-353.
members of employers' liability commission, 9.
nature and scope of act, 325.
recommendations of commission, 8.
scale of compensation, 326.
statistics of commission, 40.
text of compensation law, 326.
work of commission, 12.

IMBECILITY,
See INCOMPETENTS.
injury resulting in a permanent disability, under Illinois act, 326.

IMPERIAL INSURANCE OFFICE,
administration under German insurance laws, 596, 601.

IMPLIED CONTRACTS,
hiring under New Jersey act, 255.

INCAPACITY,
See PARTIAL INCAPACITY; TOTAL INCAPACITY.
certificate of termination, 545.
compensation under Massachusetts act, 303.
compensation under Michigan act, 355.
compensation under New Hampshire act, 296.
effect on award of increase or diminution under Illinois act, 326.
effect under Federal act, 378.
loss of arm permanent, 517.
nervousness, 452.

INCOMPETENT,
See IMBECILITY; INSANITY.
appointment of conservator and guardian under Illinois act, 326.
Arizona act, 375a.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
New Hampshire act, 296.
ground for setting aside release under Kansas act, 292.
guardian ad litem for dependent, 552.
mentally defective dependents under Rhode Island act, 367.
suicide, 471.
workmen under New York act, 56.

[*References are to Sections.*]

INCREASE,
effect of increase in earnings after injury, 540.

INDEMNITY,
See SUBROGATION.
injury to employe by third person, 462.
under British act, 513.

INDEPENDENT CONTRACTOR,
liability under British act, 577.
liability under Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Nevada act, 290.
New Jersey act, 255.
Ohio act, 171.
not included in term "workman," 444.

INDUSTRIAL ACCIDENTS,
See ACCIDENTS.
definition under German code 1911, 598.

INDUSTRIAL ACCIDENT BOARD,
California, 263.
membership under Massachusetts act, 303.

INDUSTRIAL ACCIDENT INSURANCE,
under German code 1911, 601.

INDUSTRIAL COMMISSION,
Wisconsin, 227.

INDUSTRIAL SICK CLUBS,
under German law prior to 1911, 581.

INDUSTRIES,
covered by Austrian schedule, 101.
Belgian schedule, 102.
British Columbia schedule, 103.
British schedule, 109.
Cape of Good Hope schedule, 104.
Danish schedule, 105.
Finland schedule, 106.
French schedule, 107.
German schedule, 108.
German code 1911, 598.
Greek schedule, 110.
Hungarian schedule, 111.
Italian schedule, 112.
Luxemburg schedule, 113.

[*References are to Sections.*]

INDUSTRIES—*Continued.*
Netherlands schedule, 114.
New York act, 56.
New Zealand schedule, 115.
Norwegian schedule, 116.
Russian schedule, 118.
South Australian schedule, 119.
Spanish schedule, 121.
Swedish schedule, 120.
Washington act, 140.
West Australia schedule, 122.

INEBRIATES,
See INTOXICATION.
analogy of whisky cure cases to compensation acts, 81.

INEVITABLE RISKS,
statistics, 36.

INFANTS,
appointment of guardian or next friend under Massachusetts act, 303.
Michigan act, 355.
Rhode Island act, 367.
consideration of probable earnings, 541.
misrepresentation as to age, 469.
minors included in California act, 263.
status under Rhode Island act, 367.
Washington act, 124.
waiver of common law rights under Rhode Island act, 367.

INFERENCES,
that injury is a result of accident, 447.

INFORMATION,
duty of employers to furnish, 171, 264.

INHALATION,
injury from inhalation of gas, 455.

INHERENT RISKS,
employment under British act, 573.

INJURIES,
See ACCIDENTS; DISABILITY; OCCUPATIONAL DISEASES.
compensation under Austrian schedules, 100.
Belgian schedule, 102.
British schedule, 109.
British Columbia schedule, 103.

[*References are to Sections.*]

INJURIES—*Continued.*
Cape of Good Hope schedule, 104.
Denmark schedule, 104.
Finland schedule, 106.
French schedule, 107.
German schedule, 108.
Greek schedule, 110.
Hungarian schedule, 111.
Italian schedule, 112.
Luxemburg schedule, 113.
Netherland schedule, 114.
New Zealand schedule, 115.
Norwegian schedule, 116.
Queensland schedule, 117.
Russian schedule, 118.
South Australian schedule, 119.
Spanish schedule, 121.
Swedish schedule, 120.
various American acts, 409.
West Australian schedule, 122.
defined under Federal act, 397, 398.
Washington act, 124.
duty of Ohio board to prepare and furnish blanks for proof, 171.
first notice under Ohio act, 183.
notice under Illinois act, 334.
Massachusetts act, 311.
Michigan act, 355.
Rhode Island act, 367.
various American acts, 410.
reports under Federal act, 381, 386.
various American acts, 411.

INSANITY,
See INCOMPETENTS.
total disability under Illinois act, 326.
suicide, 471.

INSOLVENCY,
employer under Illinois act, 326.
preference of claims, 355.

INSPECTION,
authority of Ohio board to employ inspectors, 171.
employer's books under Washington act, 124.
Ohio workshop and factory act, 171, 173.

[*References are to Sections.*]

INSTITUTES,
accident insurance under German code 1911, 601.
navigation accident insurance under German code 1911, 601.

INSTRUCTIONS,
effect of disregard under Federal act, 381.
letters to employers, 142, 356.
to cities, towns, counties and other municipal corporations, under Washington act, 141.
to injured workman under Washington act, 145.

INSURANCE,
See Accident Insurance; Casualty Insurance Companies; Employes' Insurance Association; Compulsory Insurance; Liability Insurance.
accident insurance under German code 1911, 598, 601.
administration by commissioner under Michigan act, 355.
advances from state to Massachusetts associations, 306.
agreements between insurer and employe under Massachusetts act, 308.
Michigan act, 355.
analysis of German insurance legislation by Laband, 68.
analysis of German statistics, 46.
application for premium under Ohio act, 177.
argument for joint contribution by employer and employé to fund, 53.
basis of compulsory insurance, 27.
building trades accident insurance laws in Germany, 590.
carriers of German imperial insurance, 601.
characteristics of German insurance legislation, 19.
compulsory payment by employés under Illinois act, 326.
contracts subject to California act, 263.
contracts under Michigan act, 355.
contributions to fund under Maryland act, 376a.
creation under Washington act, 124.
deposit of funds for insurance under Maryland act, 376a.
description of German system, 28.
development of idea from early guilds, 30.
distinguishing characteristics of workman's insurance laws, 6.
duty of Kansas superintendent to make rules to carry out statute, 292.
duty of Ohio board to fix premium rates, 171.
duties of Maryland insurance commissioner, 376a.
economic basis of compulsory insurance, 33-53.
effect of California act on liability insurance companies, 263.
effect of insolvency of company under British act, 577.
effect of insurance against liability under Kansas act. 292.
ethical basis of system, 32.

[*References are to Sections.*]

INSURANCE—*Continued.*
extent under German law prior to 1911, 581.
German industrial insurance acts, 17.
German miners' societies, 31.
German plan of insurance as remedy, 51.
German marine accident insurance laws, 591.
historical review of German plan, 15-17.
how fund raised under Montana act, 64.
information required under Kansas act, 292.
insurance of compensation to employés in Massachusetts, 305.
invalid and old age insurance under German laws prior to 1911, 593.
invalid and survivors' insurance under German code 1911, 599, 601.
investment of Ohio fund, 171.
laws an exercise of taxing power, 83-91.
laws a proper exercise of police power, 93.
liability insurance statistics in Ohio, 45.
limitations on power of legislature, 95.
meaning of term "accident" in policies, 446.
message of Emperor William I, 16.
mutual companies in liability business in Massachusetts, 304.
nature and remedial provision of insurance law, 66.
nature of administration of compensation acts, 97.
nature of obligation imposed, 67.
nature of Ohio act, 167.
navigation accident insurance under German code, 1911, 601.
necessity of approval of liability of company under California act, 263.
necessity for certificate of company under Kansas act, 292.
notice of change of insurer under Massachusetts act, 308.
object under German law prior to 1911, 583.
Ohio act compulsory act, 169.
Ohio act an insurance act, 168.
Ohio treasurer custodian of fund, 171.
origin and development of plan in Germany, 20-32.
personal liability of employer under German laws prior to 1911, 588.
principles affecting new insurance of small enterprises in Germany, 592.
problem of industrial insurance, 75.
provision in Austrian schedule, 101.
provisions in Wisconsin act, 227.
public purpose under tax power, 87.
relation between employer and employé, 70.

[*References are to Sections.*]

INSURANCE—*Continued.*
relation of carriers to each other and to other bodies under German code 1911, 601.
relation of industrial insurance to socialism, 29.
relief department not affected by Illinois act, 326.
reports of accident by Massachusetts association, 308.
report of accident to commissioner of labor, 261.
right of workman against liability insurance company, 549.
right to consider insurance of employé under various acts, 303, 355, 367.
Schaeffle, father of compulsory insurance, 24.
scope of German imperial insurance, 601.
sick insurance under German code, 580, 597, 601.
sources of fund for old age and invalid insurance under German law prior to 1911, 593.
stamp payment under German code 1911, 599.
statistical experience, 35, 37.
statistics of fault as cause of accident, 36.
study of subject in United States, 8.
theory of State obligation, 68.
under British Columbia schedule, 103.
British schedule, 109.
Cape of Good Hope law, 104.
Danish schedule, 105.
Finland schedule, 106.
French schedule, 107.
German schedule, 108, 601.
Hungarian schedule, 111.
Italian schedule, 112.
Luxemburg schedule, 113.
Michigan act, 355.
Montana act, 64.
Netherland schedule, 114.
New Zealand schedule, 115.
Norwegian schedule, 116.
Queensland schedule, 117.
Russian schedule, 118.
South Australian schedule, 119.
Spanish schedule, 121.
Swedish schedule, 120.
Washington act, 123-166.
West Australian schedule, 122.
validity of laws as to employé, 72.
as to employer, 71.
as to States, 74.
views of Wagner, 25.

[*References are to Sections.*]

INSURANCE—*Continued.*
voluntaries permitted under German code 1911, 597, 601.
voluntary insurance under Maryland act, 376a.
voluntary supplementary insurance under German code 1911, 599.
whether act may be optional, 99.
whether administration executive or judicial, 97.
whether laws lack uniformity and equality, 94.

INTENTIONAL MISCONDUCT,
See CONTRIBUTORY NEGLIGENCE; WILFUL MISCONDUCT.
effect under various American acts, 124, 421.

INTERSTATE COMMERCE,
application under various acts, 124, 289, 292, 355.

INTERURBAN RAILROADS,
hazardous employment under Washington act, 124.
included in railways under Kansas act, 292.

INTOXICATION,
effect under various American acts, 255, 296, 421, 468.

INVALID,
defined in Washington act, 124.

INVALIDITY INSURANCE,
under German code, 593, 599, 601.
waiting time under German code 1911, 601.

INVALIDITY AND SURVIVORS' INSURANCE,
procedure under German code 1911, 601.
under German code 1911, 601.
payment of benefits, 601.
relation to sick insurance, 601.

INVALIDITY PENSIONS,
under German laws, 593, 601.

INVESTIGATION,
accidents under German code 1911, 601.
authority of Washington board to investigate causes of injuries, 124.

INVESTMENT,
compensation under British act, 577.
Ohio treasurer fund, 171.
sums paid on death claim under British act, 574.

IRELAND,
application of British act to Ireland, 577.

[*References are to Sections.*]

ISTHMIAN CANAL,
employés benefited by Federal act, 379.

ITALY,
schedule, 112.

ITINERANT TRADES,
beneficiaries of sick insurance under German codes 1911, 601.

IVES v. SOUTH BUFFALO RAILROAD CO.
decision, 57.

JOHN GRAHAM BROOKS,
description of guilds, 30.
editor of Fourth special report, 8.

JOHNSON,
decision sustaining constitutionality of Ohio law, 172.

JOINDER,
parties under California act, 265.

JOINT ADVENTURES,
British act not applicable, 577.
sailing vessels, 434.

JOINT CONTRIBUTION,
by employer and employé to compensation fund, 53.

JUDGMENTS,
See APPEALS; AWARDS; FINDINGS.
certified copy filed under California act, 263.
conclusiveness under California act, 263.
under Nevada act, 290.
Wisconsin statutes, 227.
determination of benefit under German code 1911, 601.
filing under Wisconsin act, 227.
findings and awards by Wisconsin commission, 227.
for compensation under New Hampshire act, 296.
on award under Kansas act, 292.
review under California act, 263.
upon agreement of award under Kansas act, 292.
under Rhode Island act, 367.

JUDICIAL POWERS,
administrative officers, 61.
invasion under Wisconsin act, 228.
whether compensation laws infringe, 76.

[*References are to Sections.*]

JURISDICTION,
actions under Rhode Island act, 367.
appeals under Ohio act, 171.
courts in Nevada on failure of arbitration, 290.
courts under Kansas act, 292.
Rhode Island act, 367.
enforcement of laws in federal courts, 465.
excess as ground of review of findings of Wisconsin commission, 227.
Industrial Commission of Wisconsin, 228.
Michigan industrial accident board, 355.
Ohio Board, 171.
registrar of agreements between parties, 548.
relief under Wisconsin act, 235.
to enforce arbitration award under Kansas act, 292.
to recover compensation under New Hampshire act, 296.

JURY,
demand on appeal under Illinois act, 351.
deprivation of right to trial, 61, 96, 98, 124, 127.
waiver of jury trial under Kansas act, 292.

KANSAS,
enactment of compensation law, 5.
form of election by employer, 294.
formal procedure under compensation act, 293.
nature and scope of compensation act, 291.
text of compensation act, 292.
work of commission, 12.

L

LABAND,
analysis of German insurance legislation, 68.

LAPSE OF TIME,
presumption of death, 507.

LASSALLE,
influence on German legislation, 21.

LAST SICKNESS,
expenses under Massachusetts act, 303.
under Michigan act, 355.
Rhode Island act, 367.

LAUNDRIES,
classification under Washington act, 124.

LAW WRITER,
workman under British act, 432.

[*References are to Sections.*]

LAY WITNESS,
certificate and oath under Ohio act, 190, 204, 208, 225.

LEAD POISONING,
occupational disease under British act, 577.
whether an accident, 453.

LECTURER,
not workman under British act, 432.

LEG,
compensation for loss under Michigan act, 355.
under New Jersey act, 255.

LEGAL ASSISTANCE,
under German code, 1911.

LEGAL RELATION,
when that of employer and workman exists, 511.

LEGISLATURE,
power to abrogate common law defenses, 71.
power to determine public purpose of tax, 88.

LETTERS,
instructions to Michigan employers, 356.
Wisconsin employers, 236.

LETTERS OF ADMINISTRATION,
not necessary in cases of dependency, 509.
upon estate of employer, 551.

LIABILITY COMMISSION,
creation under New Jersey act, 257.

LIABILITY INSURANCE,
business engaged in by mutual companies, 304.
companies under Massachusetts act, 303.
comparison of rates with premium rates under Ohio law, 180.
reports of accident under Massachusetts act, 308.
right of workman against company under British act, 549.
statistics in Ohio, 45.
under Michigan act, 355.

LIABILITY LAWS,
characteristics, 3.
modern conception, 4.
statistics of operation, 49.

LICENSE,
to employés' insurance association under Massachusetts act, 303.

[*References are to Sections.*]

LIENS,
attorney's under Kansas act, 292.
Illinois act, 326.
New York act, 56.
in cases of insolvency under Michigan act, 355.
on awards under Wisconsin act, 227.

LIFE,
attempt to save life an act in course of employment, 484.

LIGHTNING,
whether injury accidental, 449.

LIGHT WORK,
reduction of compensation because of ability to perform, 532.

LIME BURNING PLANT,
factory under Kansas act, 292.

LIMITATIONS,
on right to enact laws, 67.
taxing power, 83.

LIMITATION OF ACTIONS,
application to workmen mentally incompetent under New Hampshire act, 296.
claim must be filed within six months in Illinois, 326.
commencement of proceedings under Michigan act, 355.
filing claim under Federal act, 378.
statute saved in Washington act, 124.
time for filing claims under British act, 577.
under Kansas act, 292.
under New Hampshire act, 296.
under Rhode Island act, 367.
under Washington act, 124.

LIVERY STABLES,
employés protected by German code 1911, 598.

LLOYD-GEORGE,
insurance law, 8, 578.

LOAN,
employés, 441.

LOCAL SICK CLUBS,
under German law prior to 1911, 581.
under German code 1911, 601.

LOCKJAW,
whether injury received in course of employment, 478.

[*References are to Sections.*]

LOCOMOTIVES,
construction covered by Nevada act, 290.

LOGGING,
hazardous employment under Washington act, 124.

LONGSHOREMAN,
compensation under Washington act, 124.

LOSS OF SIGHT,
as total or partial disability, 326, 367, 520.
compensation under Michigan act, 355.
injury accidental, 456.
nature of disability, 520.

LUMP SUM PAYMENT,
agreement for redemption under Massachusetts act, 313.
employer's petition under Illinois act, 342-343.
judgment under Kansas act, 292.
notice of intention to file petition under Illinois act, 336.
petition by administrator under Illinois act, 344.
redemption of weekly payments under British act, 517.
under British act, 577.
Arizona act, 375a.
Illinois act, 326.
Kansas act, 292.
Massachusetts act, 303.
Michigan act, 355.
Montana statute, 64.
New Hampshire act, 296.
New Jersey act, 255.
Ohio act, 171, 174.
Rhode Island act, 367.
Washington act, 124.

LUNCH HOUR,
whether injury received in course of employment, 481.

LUXEMBURG,
schedule, 113.

M

MACHINE SHOPS,
factories under Kansas act, 292.
hazardous employment under Washington act, 124.
meddling with machinery whether wilful misconduct, 467.

MALICIOUS ACTS,
right to compensation under British act, 573.

MALICIOUS INJURY,
not within scope of employment, 492.

[*References are to Sections.*]

MANAGER,
defined in British act, 577.
not workman under British act, 432.

MANUAL LABOR,
as essential to right to compensation under British act, 432.

MARINE INSURANCE,
under German laws prior to 1911, 591.

MARSHALL,
concurring opinion sustaining Wisconsin act, 228.

MARYLAND,
nature and scope of act, 376.
text of act, 376a.
voluntary character of act, 376a.
supervisory authority of insurance commissioner, 376a.

MASSACHUSETTS,
decision sustaining constitutionality of act, 307.
enactment of insurance law, 6.
formal procedure, 309.
forms for administration of act, 309-324
list of forms, 309.
members of commission, 9.
nature and scope of act, 302.
rules of industrial accident board, 308.
text of act relative to insurance of compensation under Massachusetts act, 305.
text of compensation act, 303.
text of act authorizing advances to insurance associations, 306.
text of act authorizing mutual insurance company to do liability business, 304.
work of commission, 12.

MASTER AND SERVANT,
See EMPLOYER; EMPLOYE.
common law duties for protection of servant, 1.

MATERNITY BENEFITS,
under German code 1911, 597, 601.

MEDICAL ATTENDANCE,
application for money to pay under Ohio act, 186, 192, 199, 205, 206, 216.
application for settlement of controversy, 265.
authority of Washington board to supervise treatment, 124.
charges under Ohio act, 224.
compensation under British act, 577.

[*References are to Sections.*]

MEDICAL ATTENDANCE—*Continued.*
under California act, 263.
under German laws prior to 1911, 581.
under German code 1911, 601.
under Illinois act, 326.
under Kansas act, 292.
under Maryland act, 376a.
under Massachusetts act, 303.
under Michigan act, 355.
under New Hampshire act, 296.
under Wisconsin act, 227.
under various American acts, 417.
deduction of expenses under Illinois act, 326.
duty of Ohio board to prepare and furnish blank forms, 171.
expenses during waiting period under New Jersey act, 255.
fee bill under Ohio act, 203.
formal procedure to obtain money to pay under Ohio act, 185, 191.
furnished by employer under Rhode Island act, 367.
medical fee bill under Ohio act, 196.
provisions in foreign schedule, 100-122.
whether defective treatment is an accident, 464.

MEDICAL EXAMINATION,
See PHYSICIANS.
appointment of physician under Rhode Island act, 367.
by neutral physician under Kansas act, 292.
by physician of department of commerce and labor under Federal act, 381.
certificate of physician under Kansas act, 292.
demand of workman for presence of personal physician, 556.
demand that it take place in attorney's office, 557.
effect of refusal to submit under Federal act, 378.
under Arizona act, 375a.
under Illinois act, 326.
under Kansas act, 292.
under Michigan act, 355.
under New Hampshire act, 296.
expense under California act, 263.
notice of refusal to submit under Massachusetts act, 315.
place of making under Federal act, 381.
records under Federal act, 381.
report of attending physician under Washington act, 146, 147.
requirement under British act, 577.
under Arizona act, 375a.
under California act, 263.

[*References are to Sections.*]

MEDICAL EXAMINATION—*Continued.*
under Federal act, 378, 381.
under Illinois act, 326.
under Kansas act, 292.
under Massachusetts act, 303.
under Michigan act, 355.
under Montana act, 64.
under Nevada act, 290.
under New Hampshire act, 296.
under New Jersey act, 255.
under New York act, 56.
under Rhode Island act, 367.
under various American acts, 424.
under Washington act, 124, 130.
under Wisconsin statute, 227.
right of employé to have his physician present, 255, 326, 367, 381.
special under Federal act, 381.
subsequent examination under Federal act, 381.
supplementary examination under Federal act, 381.
under Ohio act, 171.

MEDICAL EXAMINERS,
report under Illinois act, 341.

MEDICAL EXPENSES.
payment from Ohio insurance fund, 171.
procedure to obtain compensation and money to pay under Ohio act, 215.
expenses under Nevada act, 290.
under Rhode Island act, 367.

MEDICAL REFEREES,
appointment under British act, 577.
conclusiveness of certificate, 561.
selection to sit as assessor under British act, 577.
submission of question of disability to referee, 562.

MEDICAL REPORT,
proof of death by physician, 150.

MEDICAL SUPPLIES,
compensation under California act, 263.

MEDICAL WITNESSES,
under Washington act, 124.

[*References are to Sections.*]

MEDICINE,
application for money to pay under Ohio act, 186, 192.
compensation during waiting period under Massachusetts act, 303.
compensation under Illinois act, 326.
under New Jersey act, 255.
under Wisconsin act, 227.
formal procedure for obtaining under Ohio act, 185, 191.
payment from Ohio insurance fund, 171.

"MEMBER OF FAMILY,"
defined, 445.
in British act, 577.
in Kansas act, 292.

MEMORANDUM,
agreement under British act, 577.
under Massachusetts act, 303.
under Rhode Island act, 267.

MENTAL INCAPACITY,
See INCOMPETENCY; IMBECILITY; INSANITY.

MERCURY POISONING,
occupational disease under British act, 577.

MICHIGAN,
enactment of compensation law, 5.
forms required for administration of act, 357-365.
letter of instructions to employers, 356.
nature and scope of act, 354.
text of compensation act, 355.
work of commission, 12.

MILEAGE,
witness under Ohio act, 171.

MILITARY SERVICE,
excepted by British act, 577.

MILL,
definition in Washington act, 124.
hazardous employment under Arizona act, 375a.

MINES,
acceleration of diseases by accident, 463.
accident insurance under German laws prior to 1911, 582.
classification under Washington act, 124.
defined in Kansas act, 292.
in Washington act, 124.

[*References are to Sections.*]

MINES—*Continued.*
employés protected by Federal act, 380.
by Arizona act, 375a.
by Illinois act, 326.
by Kansas act, 292.
by Montana act, 64.
by Nevada act, 290.
by New Hampshire act, 296.
German liability act of 1871, 16.
German societies, 31.
hazardous employment under Washington act, 124.
manager not workman under British act, 432.

MINER'S BEAT KNEE AND ELBOW,
occupational disease under British act, 577.

MINERS' SICK CLUBS,
under German law prior to 1911, 581.

MINNESOTA,
members employés' commission, 9.

MINORS,
See INFANTS.
compensation of infant dependents under New Jersey act, 255.

MISREPRESENTATION,
as to age, whether wilful misconduct, 469.

MISTAKE,
excuse for failure to serve notice of injury, 553.

MODERN VIEWS,
employers' liability, 4.

MODIFICATION,
See AMENDMENT.
agreement or award under Kansas act, 292.
awards by Ohio board, 174.
awards under New Jersey act, 255.
findings of Ohio Board, 171.
remedies under Michigan act, 355.
rules by Ohio board, 174.
rules by Wisconsin commission, 227.

MONTANA,
enactment of insurance law, 6.
members of liability commission, 9.
workman's insurance act, 60-64.

[*References are to Sections.*]

MONTHLY ALLOWANCE,
partial payment voucher under Washington act, 159.
under Montana act, 64.

MONTHLY STATEMENT,
under Washington act, 135.

MOTHER,
See PARENTS.
dependent though supported by husband, 505.
total dependent of one of several sons, 497.

MUNICIPAL CORPORATIONS,
See CITIES.
as employer, 511.
under California act, 263.
instructions under Washington act, 141.
principal contractor, 512.
subject to California act, 263.

MUNN v. ILLINOIS,
assertion of regulatory power of legislature, 93.

MUTUAL BENEFIT,
relief department not affected by Illinois act, 326.

MUTUAL INSURANCE COMPANIES,
right to engage in liability insurance business in Massachusetts, 304.
under German law prior to 1911, 581.

N

NATURAL HAZARD,
fixed percentage, 36.

NAVY,
British act inapplicable to sailors in service of crown, 577.

NAVY YARDS,
employés protected by Federal act, 378.

NEGLIGENCE,
See CONTRIBUTORY NEGLIGENCE; FAULT; PROXIMATE CAUSE; WILFUL NEGLIGENCE.
effect on existing actions of enactment of New Jersey act, 255.
essential that liability should depend on proximate cause under California act, 263.
wilful negligence of employers under Ohio act, 171.

NERVOUSNESS,
incapacity, 452.

[*References are to Sections.*]

NERVOUS SHOCKS,
whether accidental, 451.

NETHERLANDS,
schedule, 114.

NEVADA,
enactment of compensation law, 5.
nature and scope of act, 289.
procedure by boards of arbitration, 289.
text of compensation act, 290.
work of commission, 12.

NEW HAMPSHIRE,
administration of compensation act, 297.
enactment of compensation law, 5.
formal procedure, 298.
forms used in administration of compensation act, 298-300.
nature and scope of act, 295.
text of compensation act, 296.
work of commission, 12.

NEW JERSEY,
construction of act and procedure thereunder, 259.
enactment of compensation law, 5.
forms used in administration of act, 260-261.
members of employers' liability commission, 9.
nature and scope of act, 254.
text of act, 255.
text of act creating employer's liability commission, 257.
text of act requiring report of industrial accidents, 258.
text of supplementary act saving existing contracts, 256.
work of commission, 12.

NEW TRIAL,
no power by arbitrator to grant, 567.

NEW YORK,
argument for constitutionality of act, 58.
author's views upholding views of court, 59.
compensation law first construed by courts, 54.
enactment of compensation law, 5.
first state to enact modern law, 7.
general liability law with compensation features, 59a.
members of liability commission, 9.
nature and scope of act, 55.
statistics of experience of insurance companies, 37.
text of compensation act, 56.

[*References are to Sections.*]

NEW ZEALAND,
schedules, 115.

NEXT FRIEND,
appointment under Michigan act, 355.
representation of incompetent under Massachusetts act, 303.

NOMINAL AWARD,
to keep proceedings alive, 566.

NONELECTION,
See ELECTION.

NONRESIDENTS,
See ALIENS.
not excluded as dependents under Wisconsin act, 227.

NORWAY,
schedules, 116.

NOTARIES PUBLIC,
authority to take depositions under California act, 265.

NOTICE,
See FORMS.
acceptance of California act, 270.
acceptance by employé of Michigan act, 355, 362.
by employer, 357.
acceptance of Massachusetts act by employer, 308.
acceptance of Rhode Island act, 370.
accident under British act, 576, 577.
under Arizona act, 375a.
under Illinois act, 326.
under Kansas act, 292.
under Maryland act, 376a.
under New Hampshire act, 296.
under New York act, 56.
under Washington act, 124.
amendment under British act, 577.
assessment of costs in arbitration proceeding under Massachusetts act, 322.
assessment under Washington act, 136.
by employé to employer under Massachusetts act, 308.
by employer of compliance with Wisconsin act, 241.
claim for injury under British act, 550.
under Michigan act, 363.
claim of common law rights under Massachusetts act. 311.
under Rhode Island act, 371.
construction of time of serving under Wisconsin act, 233.
continuing disability under Federal act, 381.

[*References are to Sections.*]

NOTICE—*Continued.*
defects do not invalidate in Illinois, 326.
duty of clerk to record under Ohio act, 174.
duty of employer to post notice under Wisconsin act, 235.
duty of Ohio board to prescribe, 171.
duty of Ohio employer to post notice on payment of premium, 171.
election by employers under Michigan act, 361-362.
election by employé under Wisconsin act, 245.
election under California act, 263.
election under Kansas act, 292.
employers' election under Wisconsin act, 240.
employer's notice of intention to discontinue payments under Illinois act, 330-331.
employer to employés under Massachusetts act, 310.
under Ohio act, 179.
under Maryland act, 376a.
employé's claim of compensation under California act, 275.
entry of findings and award under Wisconsin act, 253.
essentials under British act, 577.
under Illinois act, 326.
under Massachusetts act, 303.
under Michigan act, 355.
under Nevada act, 290.
failure to serve not excused by ignorance, 553.
fatal accident under Illinois act, 335.
Federal act, posted in establishments affected, 381.
filing claim for compensation under California act, 277.
first notice of death under Ohio act, 184.
first notice of injury under Ohio act, 183.
forms of procedure on notice under Ohio act, 182.
inaccuracies do not invalidate under Massachusetts act, 303.
under Arizona act, 375a.
under Rhode Island act, 367.
under British act, 577.
hearing under California act, 263, 278.
under Wisconsin statute, 227, 250.
injury and claim for compensation under Illinois act, 334.
injuries by employer under Massachusetts act, 308.
injuries by employé under various American acts, 410.
injury under Massachusetts act, 303, 319.
under Michigan act, 355.
under New Jersey act, 255.
under Rhode Island act, 367.
under Wisconsin act, 227.
intention to file petition for lump sum payment under Illinois act, 336.

[*References are to Sections.*]

NOTICE—*Continued.*
medical examination under Michigan act, 355.
under Arizona act, 375a.
necessity of notice of non-election under Illinois act, 326.
necessity of stating amount of claim, 554.
non-election by employé under California act, 274.
under Illinois act, 332.
under Wisconsin act, 246.
non-election of employer under Illinois act, 329.
non-election under New Jersey act, 255.
not essential that employé have notice of acceptance of Michigan act by employer, 355.
posting under Massachusetts act, 308.
under Wisconsin act, 227.
refusal of employé to submit to examination, 315.
required by employer, employé and state officials under various American acts, 407.
right to compensation under Federal act, 383, 395.
rules for posting under California act, 265.
service as soon as practicable under British act, 553.
service under British act, 577.
under Kansas act, 292.
under Massachusetts act, 303.
under Michigan act, 355.
under Rhode Island act, 367.
statement to be posted by Illinois employer, 333.
statement of compensation provided by Illinois act, 326.
subscribers to Massachusetts insurance association, 303.
terminating election under New Jersey act, 255.
termination of relation with insurance company under Massachusetts act, 308.
that Massachusetts employer has ceased to be a subscriber, 314.
time of filing notice of injury under California act, 263.
time of service under Nevada act, 290.
to employer of claim under Wisconsin act, 247.
to employé refusing medical examination under Massachusetts act, 316.
to physician to fill report under California act, 284.
used by employers under Ohio act, 176.
when notice not bar to proceeding under Massachusetts act, 303.
withdrawal of election of employer under Illinois act, 326.
under Michigan act, 360.
under Wisconsin act, 239.

NOTIFICATIONS,
under German code 1911, 601.

[*References are to Sections.*]

NUMBER,
liability under Ohio act dependent on number of employés, 171.
limitation of Kansas act by number of employes, 292.
limitation of Rhode Island act by number of employés, 367.

NURSES,
application for money to pay expenses under Ohio act, 186, 191, 192, 199, 216.
formal procedure for procuring services under Ohio act, 195.
payment from Ohio insurance fund, 171.
whether covered by acts, 437.

O

OATH,
employers under Ohio act, 189, 200, 210, 221.
employers to pay-rolls under Ohio act, 193.
lay witness under Ohio act, 190, 197, 204, 214, 225.
power of Michigan board to administer, 355.
power to administer under Ohio act, 171.

OBLIGATION OF CONTRACTS,
whether compensation laws violate, 92, 172

OBLIGATORY INSURANCE,
See COMPULSORY INSURANCE.

OBSTRUCTION,
effect of obstruction of medical examination under British act, 577.

OCCUPATIONAL DISEASES,
See ANTHRAX, POISONS AND TITLES OF PARTICULAR DISEASES.
apportionment between different employers, 461.
compensation under British act, 577.
contracted in service of different employers, 461.
essential that they be connected with employment, 461.
excluded under German code 1911, 598.
gradual paralysis, 459.
heart injury, 457.
under British act, 577.

OFFICE,
California Board, 263, 265.

OFFICERS,
See BOARDS; COMMISSIONS; VACANCIES.
deputies and assistants under Washington act, 124.
employés' insurance association, 303.
sickness insurance fund under German code 1911, 601.
vacancies under Massachusetts employés insurance association act, 303.

[*References are to Sections.*]

OHIO,
act an indirectly compulsory act, 169.
an insurance act, 168.
act applicable to employers of more than five men, 171.
decision of Supreme Court sustaining law, 172.
department created for administration of act, 171.
enactment of insurance law, 6.
expenses of administration of Ohio act, 171.
forms used in administration of act, 176-225.
liability insurance statistics, 45.
liability of employer under act, 170.
members of liability commission, 9.
nature of insurance act, 167.
procedure as to employers, 175.
rules of procedure before state liability board, 174.
statistics showing operation of old and new systems, 41.
summary of provisions of law, 66.
table showing amount received in settlement under old system, 42.
text of act and interpretation by board and attorney general, 171.
work of state commission, 12.
work shop and factory inspection and regulation act, 173.

OLD AGE INSURANCE,
under German law prior to 1911, 593.

OLD AGE PENSION,
sources of fund under German laws, 593.

OPTION,
election to receive compensation under Washington act, 124.
employés in case of employer's wilful negligence under Ohio act, 171.
under California act, 263.
Nevada act, 290.
Ohio act, 169.
whether act may be optional, 99.
workmen under British act, 577.

ORCHESTRAS,
covered by German code 1911, 599.

ORDER.
effect of obedience of order which should not be obeyed, 483.
intentional disobedience whether wilful misconduct, 467.
modification by Ohio Board, 171.

[*References are to Sections.*]

ORGANIZATION,
agricultural accident insurance under German code 1911, 601.
insurance under German code 1911, 601.

ORPHANS,
See DEPENDENTS.
compensation for orphan dependent under New Jersey act, 255.
under German code 1911, 599.

OUTWORKER,
defined in British act, 577.

OVERPAYMENT,
recovery under British act, 550.

P

PAIN,
no allowance, 524.

PANAMA CANAL,
employés benefited by Federal act, 379.

PAPER MILLS,
factories under Kansas act, 292.

PARALYSIS,
total disability under Illinois act, 326.
whether accidental, 459.

PARENTS,
See DEPENDENTS.
dependents, 499.
under British act, 577.
under Kansas act, 292.
under Nevada act, 290.
under New Hampshire act, 296.
mother dependent though supported by husband, 505.
mother total dependent of one of several sons, 497.
notice of claim of right under Rhode Island act, 372.

PARISH SICK INSURANCE,
under German law, 581.

PARTIAL DEPENDENTS,
compensation under California act, 263.
under Kansas act, 292.
under Massachusetts act, 303.
under Nevada act, 290.
under New Hampshire act, 296.
under Wisconsin act, 227.
total and partial dependents of same workman, 498.

[*References are to Sections.*]

PARTIAL DISABILITY,
See TOTAL DISABILITY.
compensation under California act, 263.
under Arizona act, 375a.
under Federal act, 381.
under Kansas act, 292.
under Maryland act, 376a.
under Massachusetts act, 303.
under Michigan act, 355.
under Nevada act, 290.
under New Hampshire act, 296.
under New Jersey act, 255.
under Ohio act, 171.
under Rhode Island act, 367.
under various American acts, 416.
under Wisconsin act, 227.
due to clumsiness on recovery, 521.
provision in Illinois act, 326.

PARTIAL PAYMENT,
voucher, 158, 159.

PARTIES,
to proceedings under California act, 265.
under Wisconsin act, 235.
joinder under California act, 265.

PARTNERSHIP,
British act inapplicable to partners in vessel, 577.
covered by Nevada act, 290.
employers under New Jersey act, 255.
under Wisconsin act, 227.
not beneficiaries under compensation acts, 433.

PAUPERS.
dependents, 501.
statistics, 48.

PAY-IN ORDER,
under Ohio act, 177.

PAYMENTS,
See COMPENSATION.
compensation under agricultural insurance, 601.
compensation under Federal act, 381.
under German laws prior to 1911, 586.
under Illinois act, 326.
under Massachusetts act, 303.

[*References are to Sections.*]

PAYMENTS—*Continued.*
demand for quarterly premium under Washington act, 138.
instalments under California act, 263.
methods under Rhode Island act, 367.
navigation accident insurance under German code 1911, 601.
periodical payments under New Jersey act, 255.
recovery of overpayments made by employers, 550.

PAYMENT INTO COURT,
under British act, 549.

PAY OFFICE,
injury to employé going to and from, 473.

PAYROLL,
classification based on, 171.
evidence under California act, 263.
form under Washington act, 133.
inspection under Michigan act, 355.
penalty for misrepresentation under Washington act, 124.

PENALTIES,
failure of employer to report accident, 303.
under Kansas act, 292.
imposed by Montana act, 64.
misrepresentation of payroll under Washington act, 124.
non-compliance with award under Wisconsin act, 227.
penal provisions under German code 1911, 601.
provisions in various American acts, 429.
refusal to conform to Illinois act, 326.
refusal to make report of accident under New Jersey act, 258.
reservation under Kansas act, 292.

PENSION,
invalidity under German code 1911, 599.
invalid and old age insurance under German laws prior to 1911, 593.
Lloyd-George act, 578.
payment in kind under German code 1911, 601.
under German code 1911, 601.
voucher under Washington act, 160, 161.
widow's pension under German code 1911, 599.
withdrawal and suspension under German code 1911, 601.

PERIODICAL PAYMENTS.
See COMPENSATION.

PERMANENT DISABILITY,
compensation under Illinois act, 326.
occurring after injury under Illinois act, 326.

[*References are to Sections.*]

PERMANENT PARTIAL DISABILITY,
compensation under New Jersey act, 255.
forms under Ohio act, 191.
under Washington act, 124.

PERMANENT TOTAL DISABILITY,
formal procedure to obtain compensation under Ohio act, 198.
forms under Ohio act, 198.
under Ohio act, 171.
voucher under Washington act, 160.

PERJURY,
oath to insurance certificate under Massachusetts act, 303.

PERSONAL INJURY,
See Accidents; Claims; Injuries; Scope of Employment.

PETITION,
See Pleading.
appeal from award of arbitrators under Illinois act, 349.
appointment of guardian or administrator under Illinois act, 346.
appointment of neutral physician under Illinois act, 352.
compensation under Rhode Island act, 374b.
employé's administrator for lump sum payment under Illinois act, 344.
employé's for lump sum payment under Illinois act, 345.
lump sum payment under Illinois act, 342-343.
notice of intention to file, asking lump sum payment under Illinois act, 336.
to court in case of dispute under New Jersey act, 255.
review of agreement of award under Illinois act, 353.
under Rhode Island act, 374b.

PHARMACIES,
covered by German code 1911, 598.

PHOSPHORUS POISONING,
occupational disease under British act, 577.

PHOTO ENGRAVING,
hazardous employment under Washington act, 124.

PHYSICAL EXAMINATIONS,
See Medical Examination.
under Ohio act, 171.

PHYSICIAN,
See Medical Examination.
appointment of neutral physician by Massachusetts board, 303.

[*References are to Sections.*]

PHYSICIAN—*Continued.*
authority to appoint under Washington act, 124.
certificate in proof of death under Ohio act, 209, 220.
certificate under Federal act, 389.
under Kansas act, 292.
duty of physician to keep record under California act, 264.
demand for presence of personal physician at examination, 556.
effect of advice against surgical operation, 448.
fee bill under Ohio act, 187, 194, 201, 222.
fees under Michigan act, 355.
fees subject to approval by board under Massachusetts act, 303.
forms for use under California act, 280.
form of report of attending physician under Washington act, 146, 147.
medical examination by neutral physician under Kansas act, 292.
notice to doctor to file report under California act, 284.
petition for appointment of neutral under Illinois act, 352.
proof of death under Washington act, 150.
report of accident under California act, 281.
right of employé to have personal physician present at examination, 303.
under Arizona act, 375a.
under Federal act, 381.
under California act, 263.
under Illinois act, 326.
under Kansas act, 292.
under Michigan act, 355.
under New Jersey act, 255.
under Rhode Island act, 367.
under Wisconsin statute, 227.
testimony by court physician under Kansas act, 292
whether charity physician included in acts, 437

PILOTS,
beneficiaries under British act, 577.

PITTSBURG SURVEY,
statistics, 38.

PLACE,
payment of injured workman under Kansas act, 292.

PLAYFUL ACTS,
exclusion of resulting injuries, 476.

[*References are to Sections.*]

PLEADINGS,
See PETITION.
amendment under British act, 555.
under California act, 265.
under Wisconsin act, 235.
answer under California act, 265.
great strictness not demanded, 555.
petition in case of disputes under New Jersey act, 255.
petition to recover compensation under New Hampshire act, 296.
review of Wisconsin award, 227.
service under California act, 265.
under California act, 265.
under Rhode Island act, 367.

POISONING,
occupational disease under British act, 577.
whether an accident, 453.

POLICE FORCE,
defined in British act, 577.
policemen not covered by British act, 439.

POLICE POWERS,
application to Montana act, 61.
bank depositor's guarantee acts, 78.
compensation laws a proper exercise, 93.
declaration in Washington act, 124.
extension to great public needs, 78.
fireman's fund cases, 82.
includes what, 172.
limitations, 57.
Ohio law not infringement, 172.
sheep-dog fund cases, 80.
whisky cure cases, 81.

POLICIES,
See INSURANCE.
under Massachusetts employés' insurance association, 303.
under Maryland act, 376a.

POPULAR USE,
construction of words in British act, 573.

PORT,
defined in British act, 577.
instructions under Washington act, 141.

POSTHUMOUS CHILDREN,
dependents, 502.

[*References are to Sections.*]

POSTING,
See NOTICE.

POST OFFICE,
collections and disbursements through German post office, 601.

POWDER,
See EXPLOSIVES.

POWDER MILLS,
factories under Kansas act, 292.
hazardous employment under Washington act, 124.
workers covered by New York act, 56.

PRACTICAL JOKES,
exclusion of injury received, 476.

PRACTICE,
See PROCEDURE.
rules under California act, 265.

PREFERENCES,
claims for compensation, 426.
under Arizona act, 375a.
under California act, 263.
under Illinois act, 326.
under Maryland act, 376a.
under Nevada act, 290.
under Massachusetts act, 303.
under Michigan act, 355.
under New Hampshire act, 296.
under New Jersey act, 255.
under New York act, 56.
under Rhode Island act, 367.
under Wisconsin act, 227.
compensation claims on insolvency of insurance company, 577.

PREJUDICE,
burden of proof of lack under British act, 553.
delay in service of notice of injury, 553.

PREMIUM,
See INSURANCE.
application for premium under Ohio act, 177.
apportionment under Maryland act, 376a.
comparison under Ohio law with liability insurance rates, 180.
duty of Ohio board to fix rates, 171.
employés' insurance association, 303.
under Michigan act, 355.

[*References are to Sections.*]

PRESENT VALUE,
See LUMP SUM PAYMENT.
deposit to release employer under Michigan act, 355.

PRESIDENT ROOSEVELT,
recommendation of compensation law, 13.

PRESUMPTION,
acceptance under California act, 263.
under Kansas act, 292.
continuance of employment, 530.
death from lapse of time, 507.
election by employer under Illinois act, 326.
that casual laborer will continue employment, 542.

PREVENTION,
accidents under German laws, 587, 601.

PREVIOUS DISABILITY,
effect of Michigan act, 355.
right to consider in compensation under Rhode Island act, 367.

PREVENTIVE REGULATIONS,
under German laws prior to 1911, 587.

PRINCIPAL CONTRACTOR,
See INDEPENDENT CONTRACTOR.
liability, 512.
liability under British act, 577.
under Illinois act, 326.
under Kansas act, 292.
under Nevada act, 290.
under New York act, 56.
liability on subletting under Ohio act, 171.
liability under various American statutes, 405.
right to employ sub-contractor under Kansas act, 292.

PRINTING WORKS,
classification under Washington act, 124.
factories under Kansas act, 292.
hazardous employment under Washington act, 124.

PRISONS,
deduction while workman incarcerated, 536.

PROCEDURE,
See ARBITRATION; CONTINUANCE; ELECTION OF REMEDIES; EVIDENCE; FORMAL PROCEDURE; HEARING; JUDGMENT; PROCESS.
adoption by Wisconsin commission, 227.
apportionment among dependents, 564.

[*References are to Sections.*]

PROCEDURE—*Continued.*
arbitration under British act, 577.
as to injured employés, 181.
before imperial insurance office under German code 1911, 601.
combination and separation of sickness insurance under German code 1911, 601.
determination of benefits under German code 1911, 601.
disputes under various laws, 56, 109-120, 255, 290, 303, 326, 355, 555, 557.
duty of Ohio board to adopt, 171.
formal procedure, 134, 185, 198, 237, 266, 293, 309, 358, 369.
in case of death under Federal act, 393.
in case of disability under Federal act, 385.
in case of dispute under New Jersey act, 255.
informal and liberal under Wisconsin act, 228.
in Superior Court under Rhode Island act, 373.
liberality of procedure on hearing before Ohio Board, 171.
nominal award to keep proceedings alive, 566.
on notice under Ohio act, 182.
reopening of proceedings under German code 1911, 601.
rules under California act, 265.
special provisions for navigation accident insurance under German code 1911, 601.
summary under Michigan act, 355.
to obtain compensation and money to pay for medical, hospital and funeral expenses, under Ohio act, 215.
to obtain compensation in case of permanent total disability under Ohio act, 198.
under British act, 546-571.
under German code 1911, 601.
under Illinois act, 327.
under Massachusetts act, 303.
under Michigan act, 355.
under Wisconsin act, 235-253.

PROCESS,
See NOTICE; SERVICE.
execution of decree under Rhode Island act, 367.
service in case of review of Wisconsin award, 227.
summary under Michigan act, 355.
under Massachusetts act, 303.

PROFITS,
consideration of profits of business carried on by injured workman, 539.

PROHIBITIONS,
under German code 1911, 601.

[*References are to Sections.*]

PROOF,
See EVIDENCE.
authority of Washington board to regulate proof of accident, 124.
death under Washington act, 150, 151.
duty of Ohio board to prepare and furnish blank forms, 171.
rules governing proof before Ohio board, 174.
PROXIMATE CAUSE,
death under Michigan act, 355.
injury under California act, 263.
under Kansas act, 292.
right to compensation as dependent on, 518.
whether injury must be proximate cause of accident, 466.

PRUSSIA,
common law on master's liability, 15.

PUBLIC EMPLOYES,
See GOVERNMENT EMPLOYES.

PUBLIC INTEREST,
basis of compensation laws, 74.
when property becomes clothed with, 93.

PUBLIC POLICY,
meaning of term, 228.

PUBLIC PURPOSE,
essential to valid tax, 86-87.
tax determined by legislature, 88.

PUBLIC SERVICE CORPORATIONS,
employers under California act, 263.
under Michigan act, 355.

PUBLIC WORK,
liability under Washington act, 124.

Q

QUARRIES,
classification under Washington act, 124.
defined in Kansas act, 292.
in Washington act, 124.
covered by Illinois act, 326.
by Kansas act, 292.
by New Hampshire act, 296.
hazardous employment under Washington act, 124.

QUARTERLY PAYMENT,
demand under Washington act, 138.

[*References are to Sections.*]

QUEENSLAND,
schedule, 117.

QUESTION OF FACT,
accident under British act, 573.
conclusiveness of findings under British act, 563.
defective medical treatment, 464.
dependency, 303, 496.
no review under British act, 570.
recovery from injury, 563.
whether existing disease accelerated by accident, 463.
whether recovery complete, 519.
whether workman understood compromise, 516.
wilful negligence of employé under New Jersey act, 255.

QUORUM,
California board, 263.
Massachusetts employés' insurance association, 303.
Ohio board, 171.

R

RAILWAYS,
See STREET RAILWAYS.
accident insurance under German law prior to 1911, 582.
application of Wisconsin act, 227.
classification under Washington act, 124.
definition in Kansas act, 292.
definition of "employment on railways," 292.
employés covered by New York act, 56.
employments covered by New Hampshire act, 296.
hazardous employment under Washington act, 124.
operation covered by Kansas act, 292.
by Arizona act, 375a.
by Nevada act, 290.
by New Hampshire act, 296.
whether work "on, in or about" railroads, 492.

RATES,
See COMPENSATION; SCALE OF COMPENSATION.
duty of Ohio board to fix rates, 171.
under Washington act, 124, 165, 166.

REASONABLENESS,
demand for personal physician, 556.
refusal to undergo operation, 448.

RECEIPTS,
authority of Washington board to issue, 124.
compensation under Massachusetts act, 323, 324.
old age insurance under German laws, 593.

[*References are to Sections.*]

RECORDS,
accident under Federal act, 381.
duty of California board to provide proper record book, 263.
duty of California physician to keep, 264.
duty of employer to keep record of injuries, 264, 303.
examination by Massachusetts board, 303.
injuries to be kept by Michigan employer, 355.
medical reports under Federal act, 381.
open to inspection under California act, 264.
power of Ohio board to require production, 171.
power to compel production under Massachusetts act, 303.
proceedings of Ohio board, 171.
subject to inspection under Michigan act, 355.
use in proceedings under Michigan act, 355.

REDEMPTION,
See LUMP SUM PAYMENT.

REDUCTION,
compensation by reason of change of circumstances, 531.

REDUCTION WORKS,
hazardous employment under Washington act, 124.

REFINERIES,
factories under Kansas act, 292.

REGISTRAR,
jurisdiction under British act, 548, 577.

REGISTRATION,
establishments under German code 1911, 601.

REGULATIONS,
See RULES.
under Nevada act, 290.
made by secretary of state under British act, 577.
power of insurance association to make and enforce, 303.
prescribed by Federal act, 381.
safeguard regulations preserved, in Washington, act, 124.

REIMBURSEMENTS,
under German laws prior to 1911, 594.

RELEASE,
employers by conduct of employé under Michigan act, 355.
filing under Kansas act, 292.
grounds for setting aside under Kansas act, 292.
subscribers under Massachusetts act, 303.
to employer under Montana statute, 64.
under Wisconsin act, 227.
vitiated by fraud, 546.

[*References are to Sections.*]

RELIEF FUNDS,
effect of acceptance on amount of compensation, 537.
membership under Michigan act, 355.
not affected by Illinois act, 326.

REMAND,
record under Wisconsin act, 227.
report under California act, 263.

REMEDIES,
by Kansas act, 292.
constitutional guaranty, 73.
contrast of German and English plans, 51.
creation of new remedy by act, 67.
election under various American acts, 292, 422.
vested rights of employés, 73.

REMOVAL,
effect of removal of injured workman beyond United Kingdom, 577.

REPEAL,
distribution of fund on repeal of Washington act, 124.

REPORTS,
See FORMS.
accidents by association under Massachusetts act, 308.
by boards, 124, 171, 264.
by casualty company under Wisconsin act, 249.
by employers under California act, 264.
by employer under Massachusetts act, 303.
by employer under Michigan act, 355.
by employer under Washington act, 143.
by employer and employé under Wisconsin act, 235.
by examining physician under Nevada act, 290.
by physician under California act, 264, 281.
accidents under Federal act, 378.
under German code 1911, 601.
under Illinois act, 326.
under Kansas act, 292.
under Maryland act, 376a.
under New Hampshire act, 300.
under New Jersey act, 257.
under various American acts, 411.
actual pay roll, under Washington act, 133.
arbitrators under Illinois act, 326, 348.
under Massachusetts act, 320.
disability under Federal act, 381.
discontinuance of compensation under Federal act, 392.

[*Referenees are to Sections.*]

REPORTS—*Continued.*
death under Federal act, 381, 393.
duty of California employer to transmit supplemental, 264.
employer's first report of accident under California act, 271.
employer's supplemental report under California act, 272.
essentials of accident reports under Illinois act, 326.
fatal accident under Illinois act, 337.
filed with Maryland insurance commissioner, 376a.
first accident report of casualty company under California act, 286.
first report of accident under Michigan act, 364.
first report of accident under Wisconsin act, 242.
form of report of attending physician under Washington act, 146.
forms of reports under New Jersey act, 260, 261.
form of supplementary report under Ohio act, 178.
information under Kansas act, 292.
injuries by employers under British act, 577.
injury under Federal act, 381, 386.
medical and surgical examiners under Illinois act, 341.
under Arizona act, 375a.
under Kansas act, 292.
non-fatal accident under Illinois act, 339.
operation of Washington act, 164.
penalty for failure to report accident under Kansas act, 292.
under Massachusetts act, 303.
request for fuller report of accident under California act, 283.
secrecy of reports of accidents under New Jersey act, 258.
special report under Washington act, 149.
supplemental reports of accidents under Massachusetts act, 303.
under Michigan act, 365.
under New Hampshire act, 301.
under Wisconsin act, 243.
supplemental report of casualty companies under California act, 287.
supplementary report of fatal accident under Illinois act, 338.
supplemental report of non-fatal accident after recovery under Illinois act, 340.
surgeon's special report under Washington act, 147.
termination of disability under Federal act, 381, 387.
to commissioner of labor under New Hampshire act, 296.
under California act, 265.
under Federal act, 381.
under Ohio workshop and factory act, 173.
witness of accident under Washington act, 148.

[*References are to Sections.*]

REQUEST,
medical examination under Federal act, 391.
under Wisconsin act, 227.

RES JUDICATA,
original finding as to physical condition, 569.

RESERVATIONS,
penalties under Kansas act, 292.
liability for wrong or negligence under Kansas act, 292.

RETAINERS,
right to include in weekly earnings, 528.

RETROACTIVE OPERATION,
See STATUTES.
whether Wisconsin act applies to contracts in existence at its enactment, 228.

REVERSAL,
award under California act, 263.

REVIEW,
See APPEAL.
action of employes' insurance association, 303.
agreement or award under Kansas act, 292.
award on change of circumstances, 569.
award on increase or diminution of incapacity under Illinois act, 326.
award under California act, 263.
under Michigan act, 355.
under Washington act, 124.
under Wisconsin act, 230.
by courts under Wisconsin act, 227.
decisions of New Hampshire commissioner, 296.
employer bound by application, 568.
operation of Washington act, 165, 166.
reports under Federal act, 381.
weekly payments under British act, 577.

REVOCATION,
acceptance by employer under New Hampshire act, 296.
compensation under foreign laws, 101-122.
insurance certificate under Kansas act, 292.

RHODE ISLAND,
administration and procedure, 368.
enactment of compensation law, 5.
formal procedure under act, 369.
forms for administration of act, 374b.

[*References are to Sections.*]

RHODE ISLAND—*Continued.*
nature and scope of act, 366.
procedure in the superior court, 373-374b.
text of compensation act, 367.
work of commission, 12.

RISK,
See ASSUMPTION OF RISK; INEVITABLE RISKS.
as basis of liability under New York act, 56.
duty of Ohio board to fix premium, 171.

RIVERS AND HARBORS,
employés protected by Federal act, 378.

ROAD WORK,
classification under Washington act, 124.

RULES,
See ORDERS; REGULATIONS.
adoption by Wisconsin commission, 227.
authority of directors of employés' insurance association to make, 303.
authority of Massachusetts board to formulate, 308.
of Michigan board, 355.
Washington board, 124, 128-130.
changes by Ohio board, 174.
circular letter explaining Wisconsin act, 236.
duty of superintendent of insurance to make under Kansas act, 292.
duty of Ohio board to adopt, 171.
effect of obedience of rules which should not be obeyed, 483.
exempting employer from liability under California act, 263.
under Nevada act, 290.
Massachusetts board, 308.
modification of board rules under Ohio act, 174.
practice under California act, 265.
practice under Wisconsin act, 235.
prescribed by employés' insurance association, 303.
prescribed for administration of Federal act, 381.
right to formulate under Massachusetts act, 303.
supplementary under Massachusetts act, 308.
whether breach amounts to wilful misconduct, 467.

RUPTURES,
infant workman, 541.
whether accidental, 458

RURAL SICK FUNDS,
under German code 1911, 597, 601.

[*References are to Sections.*]

RUSSIA,
schedule, 118.

S

SAFEGUARDS,
employer's responsibility under Washington act, 124.
regulations preserved in Washington act, 124.

SAFETY REGULATIONS,
effect of failure to comply with, under Illinois act, 326.

SAILORS,
beneficiaries under British act, 577.
definition in British act, 577.
injury while leaving and returning to ship, 489-490.
liability for compensation between owner and charterer of vessel, 441.
special provisions under German invalid and old age pensions, 601.
working on shares not within compensation act, 434, 435.

SALARIES,
California board, 263.
Massachusetts board, 303.
Michigan Accident Board, 355.
Ohio board, 171.
Washington commission, 124.
Wisconsin Industrial Commission, 227.

SAVINGS,
right to consider savings of employé under Rhode Island act, 367.

SAWMILLS,
classification under Washington act, 124.

SAXONY,
excepted from operation, German code 1911, 596.

SCAFFOLDS,
workers covered by Arizona act, 375a.
workers covered by Nevada act, 290.
workers protected by New York act, 56.

SCALE OF COMPENSATION,
See COMPENSATION.
Arizona, 375a.
California, 263.
foreign laws, 100-122.
Great Britain, 577.
Illinois, 326.
Kansas, 292.

[*References are to Sections.*]

SCALE OF COMPENSATION—*Continued.*
Michigan, 355.
Nevada, 290.
New Hampshire, 296.
New Jersey, 255.
Ohio, 171.
Washington act, 124.
Wisconsin, 227.

SCHAEFFLE,
views on compulsory insurance, 24.

SCHEMES,
alternative schemes of compensation under various American acts, 367, 423.
various schemes of administration under American statutes, 402.

SCHOOL DISTRICTS,
employers under California act, 263.
under Michigan act, 355.
under Wisconsin act, 227.
instructions under Washington act, 141.

SCOPE OF EMPLOYMENT,
accident while going to and from pay office, 473.
acts, in emergencies, 485.
attempts to save life of fellow employé, 484.
burden of proof, 495.
compensation denied where injury received outside scope of employment, 474.
defined under Federal act, 399.
dismissed employé on premises to remove tools, 479.
essential that accident should occur to employé while engaged in, 263.
under Kansas act, 292.
exclusion of injury while playing jokes, 476.
fall from wagon while attempting to recover dropped pipe, 482.
injuries during lunch hour, 481.
injuries on premises after discharge, 491.
injury to collectors, 488.
injury to employé away from master's premises, 477.
injury to sailors leaving and returning to ship, 489-490.
injury while doing forbidden acts, 475.
injury while going from one employment to another, 486.
injury while going to and returning from work, 486.
malicious injury, 492.
meaning of phrase in British act, 573.

[*References are to Sections.*]

SCOPE OF EMPLOYMENT—*Continued.*
meaning of expression "accident arising out of and in the course of employment," 472.
necessity that injury be received under British act, 577.
obedience of order which should not be obeyed, 483.
retroactive effect of statutes, 494.
suffocation while asleep on premises of master, 487.
temporary interruptions, 480.
tetanus contracted by gardener, 478.
whether work "on, in or about" a railway, 492.
wilful misconduct where injury received outside scope of employment, 467.

SCOTLAND,
application of British act to Scotland, 577.

SEAL,
Michigan board, 355.
Wisconsin commission, 227.

SECRETARY,
employment by California board, 263.
by Massachusetts board, 303.
by Michigan board, 355.
by New Jersey board, 257.
by Ohio board, 171.
by Wisconsin commission, 227.

SECRETARY OF COMMERCE AND LABOR,
administration of Federal act, 378.

SECRETARY OF STATE,
duties under British act, 577.

SECURITY,
payment of compensation under foreign laws, 100-122.

SEPARATION,
dependency where wife separated from husband, 506.

SERIOUS MISCONDUCT,
See WILFUL MISCONDUCT.
of employé defeats compensation under Massachusetts act, 303.
effect under various American acts, 421.

SERIOUS NEGLECT,
meaning of term in British act, 467.

[*References are to Sections.*]

SERVICE,
admission under Wisconsin act, 252.
notice of injury as soon as practicable, under British act, 553.
notices under British act, 577.
under Kansas act, 292.
under Massachusetts act, 308.
under Michigan act, 355.
under Nevada act, 290.
under Rhode Island act, 367.
pleadings under California act, 265.
papers under Wisconsin act, 235.

SET-OFF,
payments under British act, 550.

SETTLEMENT,
See COMPENSATION; COMPROMISE; FINAL SETTLEMENT.
between parties under California act, 263.
claim under Kansas act, 292.
disputes under Belgian schedule, 102.
under British schedule, 109.
under British Columbia schedule, 103.
under Cape of Good Hope schedule, 104.
under Danish schedule, 105.
under Finland schedule, 106.
under French schedule, 107.
under German schedule, 108.
under Greek schedule, 110.
under Hungarian schedule, 111.
under Italian schedule, 112.
under Luxemburg schedule, 113.
under Netherlands schedule, 114.
under the New York act, 56.
under New Zealand schedule, 115.
under Norwegian schedule, 116.
under Queensland schedule, 117.
under Russian schedule, 118.
under South Australian schedule, 119.
under Swedish schedule, 120.
under West Australian schedule, 122.
receipt under Massachusetts act, 324.
right of parties to settle under Nevada act, 290.

SHAFTS,
construction covered by Nevada act, 290.

SHEEP-DOG FUND CASES,
analogy to compensation acts, 80.

[*References are to Sections.*]

SHIP,
defined in British act, 577.

SHIPBUILDING,
classification under Washington act, 124.

SHIPPING,
application of British act to employé in sea service, 577.
employment covered by German act 1911, 601.

SHOCKS,
whether nervous are accidental, 451.

SICK CLUBS,
change of membership on removal under German law, 581.

SICK FUNDS,
under German code 1911, 597.

SICKNESS INSURANCE,
German code laws, 601.
federation of funds under German code 1911, 601.
miners' funds under German code 1911, 601.
relation to invalidity and survivors' insurance under German code 1911, 601.

SICK LEAVE,
in lieu of compensation under Federal act, 383.

SIMULATION,
nervousness, 452.

SISMONDI,
views on insurance laws, 22.

SISTERS,
dependents under Kansas act, 292.
under Michigan act, 355.
under Nevada act, 290.

SMELTERS,
factories under Kansas act, 292.
hazardous employment under Washington act, 124.

SOCIALISM,
relation to industrial insurance, 29.
the Marx doctrine, 29.

SOCIAL RESULTS,
accidents under old system, 44.

SOCIETIES,
miners, 31.

[*References are to Sections.*]

SOLDIERS,
exemption from compulsory insurance under German laws prior to 1911, 593.

SOUTH AUSTRALIA,
schedule, 119.

SPAIN,
schedule, 121.

SPECIAL EXAMINATION,
medical under Federal act, 381.

SPECIAL REPORT,
surgeon under Washington act, 149.

SPECTACLES,
furnished under German law, 581.

STAMPS,
receipts for old age insurance under German laws, 593.
use authorized in German code 1911, 599.

STATE,
employer under California act, 263.
under Michigan act, 355.
under Wisconsin act, 227.
validity of compensation acts as to State, 74.

STATE COMMISSIONER,
reports of accidents under Kansas act, 292.

STATE EMPLOYES,
See GOVERNMENT EMPLOYES.
construction of term in Ohio act, 171.
entitled to compensation under California act, 263.

STATE INSURANCE,
See INSURANCE.
German origin, 26.

STATE OBLIGATION,
theory of insurance legislation, 68.

STATE OFFICIALS,
notices required under various American statutes, 407.

STATE TREASURER,
bond to protect insurance fund, 171.
custodian of Ohio insurance fund, 171.

STATE v. CLAUSEN,
decision sustaining constitutionality of Washington act, 127.

[*References are to Sections.*]

STATEMENT,
See FORMS.
election under Wisconsin act, 227.
to be posted by Illinois employer, 333.

STATISTICS,
analysis of German statistics, 46.
authority of Washington board to compile and preserve, 124.
average amount of settlement of fatal cases within specified limits, 42.
average amount received in settlement in Ohio under old system, 42.
duty of Ohio Board to make reports showing cause of injury, 171.
effect of old and new systems of compensation, 34.
experience under German insurance laws, 35.
fundamental economic conclusions, 50.
Illinois bureau, 326.
liability insurance in Ohio, 45.
miscellaneous data concerning old and new systems, 48.
paupers, 48.
percentage of employés receiving compensation, 34-49.
percentage of workmen receiving compensation under old system, 49.
Pittsburg survey, 38.
power of Ohio Board to make expenditures to obtain useful statistics, 171.
question of fault and prevention of accident, 36.
report of Illinois commission, 40.
results of invalid and old age insurance in Germany, 593.
report of operation of Washington act, 166.
studies showing effect of old and new systems, 36.
in Ohio, 41.
table showing cause of accidents under German laws, 36.
tabulation of New Jersey accidents, 257, 258.
Wisconsin bureau, 39.

STATUTES.
effect of partial invalidity of New Jersey act, 255.
extraterritorial effects of compensation laws, 465.
Illinois act not invalidated by invalid provisions, 326.
necessity that they rest on sound economic principles, 59.
provisions saving Washington act for partial invalidity, 124.
purpose to correct economic inequalities, 53.
retroactive effect, 292, 367, 494.
saving clause in Illinois act, 326.
whether Wisconsin act applies to contracts in existence at its enactment, 228.

[*References are to Sections.*]

STATUTES OF LIMITATIONS,
See LIMITATION OF ACTIONS.

STAY,
proceedings under Kansas act, 292.

STEAMBOATS,
classification under Washington act, 124.

STEAM HEATING PLANT,
factory under Kansas act, 292.
hazardous employment under the Washington act, 124.

STENOGRAPHERS,
authority of Ohio board to employ, 171.
employment under California act, 265.

STEPBROTHERS AND SISTERS,
dependents under British act, 577.
under Kansas act, 292.

STEP-CHILDREN,
dependents under Kansas act, 292.
under Washington act, 124.

STEP-PARENTS,
dependents under British act, 577.
under Kansas act, 292.

STEREOTYPING,
hazardous employment under Washington act, 124.

STEVEDORE,
schedule of compensation under Washington act, 124.

STIPULATIONS,
facts under Wisconsin act, 235.
in hearings under California act, 265.

STOCKYARDS,
schedule of compensation under Washington act, 124.

STRAINS,
See RUPTURES.
whether accidental, 458.

STREET RAILWAYS,
See RAILWAYS.
classification under Washington act, 124.
hazardous employment under Washington act, 124.
under Arizona act, 375a.
included in railways in Kansas act, 292.
operation covered by New Hampshire act, 296.
wilful misconduct of conductor, 231.

[*References are to Sections.*]

STRIKES,
injury to employé by strikers, 462.

STRUCTURES,
construction or demolition covered by Illinois act, 326

SUB-AQUEOUS WORK,
classification under Washington act, 124.

SUB-CONTRACTOR,
liability under British act, 577.
under Kansas act, 292.
under Massachusetts act, 303.
under Nevada act, 290.
under New Jersey act, 255.
under New York act, 56.

SUBJECTS,
taxation, 84.

SUBMISSION,
disputes by Wisconsin commission, 227.
medical referee, under British act, 562.
under New Jersey act, 255.

SUBPOENAS,
fees for serving under Ohio act, 171.
power of Ohio board to issue, 171.
witnesses under California act, 279.
under Massachusetts act, 303.
under Michigan act, 355.
under Wisconsin act, 251.

SUBSCRIBER,
definition in Massachusetts act, 303.
Massachusetts employés' insurance association, 303.
notice that employer has ceased under Massachusetts act, 314.

SUBSEQUENT EXAMINATION,
medical under Federal act, 381.

SUBSIDIARY SICK INSURANCE,
under German laws prior to 1911, 581.

SUBROGATION,
employé against insolvent employer under Illinois act, 326.
liability under Michigan act, 355.
on insolvency of employer under Illinois act, 326.
under British act, 513, 577.
California act, 263.
Illinois act, 326.

[*References are to Sections.*]

SUBROGATION—*Continued.*
Kansas act, 292.
Massachusetts act, 303.
various American statutes, 405.

SUBSTITUTE FUNDS,
sickness insurance under German code 1911, 601.

SUFFERING,
no allowance, 525-530.

SUFFOCATION,
whether suffocation while asleep on master's premises is in course of employment, 487.

SUICIDE,
insane workmen, 471.

SUMMARY,
See STATISTICS.
comparison of old and new system in Ohio, 52.
under Washington act, 165, 166.

SUMMARY PROCEDURE,
under Massachusetts act, 303.
under New Jersey act, 255.

SUNSTROKE,
whether injury accidental, 449.

SUPERIOR COURT,
jurisdiction under Rhode Island act, 367.

SUPERVISION,
accident insurance under German code 1911, 601.
agricultural accident insurance under German code 1911, 601.
insurance under German code 1911, 601.
navigation accident insurance under German code 1911, 601.
sickness insurance under German code 1911, 601.

SUPPLEMENTAL RECORDS,
duty of California employer to transmit, 264

SUPPLEMENTAL REPORT,
accident under California act, 272.
under Massachusetts act, 303.
under Michigan act, 365.
under New Hampshire act, 301
under Ohio act, 178.
under Wisconsin act, 243.

[*References are to Sections.*]

SUPPLEMENTAL REPORT—*Continued.*
by casualty companies under California act, 287.
fatal accident under Illinois act, 338.
request for fuller report under California act, 283.

SUPPORT,
See DEFENDANTS.
defined by Wisconsin act, 234.

SUPREME COURT,
jurisdiction of appeal under California act, 263.
jurisdiction to review compensation cases under Massachusetts act, 303.

SURGICAL AID,
See MEDICAL ATTENDANCE.
compensation under various American acts, 417.

SURGICAL EXAMINERS,
report under Illinois act, 341.

SURGICAL OPERATION,
effect of advice of physician against operation, 448.
effect of refusal to undergo, 448.
whether death from anaesthetic accidental, 450.

SURGICAL SERVICES,
See MEDICAL ATTENDANCE.

SURGICAL TREATMENT.
authority of Washington board to supervise, 124.
compensation under California act, 263.
under Wisconsin act, 227.

SURGEON,
report under Washington act, 147, 149.

SURVIVORS,
See DEPENDENTS.
pension voucher under Washington act, 161.

SURVIVOR'S INSURANCE,
under German code 1911, 601.

SUSPENSION,
workman under British act, 577.

SUSPENSORY AWARD,
to keep proceedings alive under British act, 566.

SWEDEN,
schedule, 120.

[*References are to Sections.*]

T

TABLES,
See STATISTICS.

TAXATION,
attributes and limitation of taxing power, 83.
basis of compensation and insurance laws, 67.
basis of compulsory insurance, 27.
compensation laws an exercise of taxing power, 83.
necessity of benefit as a condition to right to tax, 89.
necessity of public purpose, 86.
necessity of return of benefit to tax-payer, 90.
public purpose of tax for insurance, 67.
determined by legislature, 88.
similarity of attributes to eminent domain, 85.
subjects, 84.
whether conditions of equality and uniformity satisfied, 91.
whether Wisconsin act requires levy of invalid tax, 228.

TAXICAB DRIVERS,
work on shares, 435.
exemption from German compulsory insurance laws, 593.

TEETH,
compensation for loss under New Jersey act, 255.

TELEGRAPHER'S DISEASE,
compensation under British act, 577.

TELEGRAPHS,
classification under Washington act, 124.
hazardous employment under Washington act, 124.
under Arizona act, 375a.

TELEPHONES,
classification under Washington act, 124.
hazardous employment under Washington act, 124.

TEMPORARY DISABILITY,
compensation under Ohio act, 171.
schedule under New Jersey act, 255.

TEMPORARY INTERRUPTIONS,
whether suspends course of employment, 480.

TEMPORARY PARTIAL DISABILITY,
forms under Ohio law, 191.

TEMPORARY TOTAL DISABILITY,
compensation under Wisconsin act, 227.
forms under Ohio law, 191.
vouchers under Washington act, 158, 159.

[*References are to Sections.*]

TERMINATION,
disability under Washington act, 124.

TEST,
ability to do light work, 532.

TETANUS,
whether contracted in course of employment, 478.

THEATERS,
schedule of compensation under Washington act, 124.

THEATRICAL COMPANIES,
covered by German code 1911, 599.

THIRD PERSON,
injury from violence at hands of third person, 462.
liability under British act, 577.
under Wisconsin act, 227.

THUMB,
compensation for loss under Michigan act, 355.
under Massachusetts act, 303.
under New Jersey act, 255.

TILE WORK,
classification under Washington act, 124.

TIME,
See LIMITATION OF ACTIONS.
filing claim under Massachusetts, 303.
filing notices under British act, 577.
limits German code 1911, 601.
notice of injury under Rhode Island act, 367.
when compensation begins under various American acts, 414.
when employment commences, 486.

TIPS,
right to include in determining weekly earnings, 528.

TOES,
compensation for loss under Massachusetts act, 303.
under Michigan act, 355.
under New Jersey act, 255.
under Rhode Island act, 367.

TOTAL DISABILITY,
blindness under Illinois act, 326.
compensation, 519.
compensation under British act, 577.
under Arizona act, 375a.
under California act, 263.
under Illinois act, 326.

[*References are to Sections.*]

TOTAL DISABILITY—*Continued.*
under Kansas act, 292.
under Maryland act, 376a.
under Michigan act, 355.
under New Hampshire act, 296.
under New Jersey act, 255.
under Nevada act, 290.
under Ohio act, 171, 191, 198.
under Rhode Island act, 367.
under various American acts, 415.
under Wisconsin act, 227.
loss of sight, 303, 520.

TOWNS,
employers under Wisconsin act, 227.

TRADE ASSOCIATION,
under German laws prior to 1911, 587.

TRANSCRIPT,
appeal under Rhode Island act, 367.
awards under California act, 263.

TRANSFER,
See ASSIGNMENT.

TRAVELING EXPENSES,
Ohio board, 171.

TRIAL,
See HEARINGS; QUESTIONS OF FACT.
petition under New Jersey act, 255.
right to refer to compensation in common law suit, under Ohio act, 171.
under Rhode Island act, 367.

TRUSSES,
furnished under German law, 581.

TUBERCULOSIS,
whether covered by British act, 553.

TUGS,
hazardous employment under Washington act, 124.

TUNNELS,
classification of work under Washington act, 124.
construction covered by Nevada act, 290.
workers covered by New York act, 56.

[*References are to Sections.*]

U

UNAUTHORIZED ACTS,
effect of unauthorized employment of servant, 443.

UNDERTAKER,
certificate of death and cost bill under Ohio act, 207, 218.
proof of death under Washington act, 151.
under German code 1911, 601.

UNDUE INFLUENCE,
as ground for setting aside award under Kansas act, 292.

UNIFORM LAWS,
members of committee to prepare uniform compensation laws, 9.

UNIFORMITY,
See EQUALITY AND UNIFORMITY.

UNIFORMITY OF OPERATION,
compensation law, 94.
whether compensation laws violate rule, 76, 92.

UNITED STATES,
Federal compensation act, 377-399.
Federal compensation commission, 14.
enactment of compensation law, 5.
exclusion from operation of Washington act, 124.
members of employers' liability commission, 9.

V

VACANCIES,
in office of employés' insurance association, 303.
California board, 263.
Michigan industrial accident board, 355.
Ohio board of awards, 171.
Wisconsin board, 227.

VESSEL,
defined in British act, 577.

VESTED RIGHTS,
employé in remedies withdrawn by act, 73.
existing remedies, 307.

VILLAGES,
employers under California act, 263.
under Wisconsin act, 227.

VIOLATION OF LAW,
operation to defeat compensation under New Hampshire act, 296.

[*References are to Sections.*]

VIOLENCE,
injury whether accidental, 462.

VOTERS,
Massachusetts employes' insurance association, 303.

VOUCHERS,
See FORMS.
burial expense under Washington act, 162.
final settlement under Washington act, 163.
partial payment under Washington act, 158.
pension under Washington act, 160, 161.

W

WAGES,
effect of general fall in wages, 534.
injury to employé going to and from pay office, 473.
local wage rate under German code 1911, 601.

WAGNER,
views on compulsory insurance, 25, 27.

WAINWRIGHT COMMISSION,
argument for constitutionality of New York act, 58.

WAITING PERIOD,
invalid and old age pensions under German laws prior to 1911. 593.
one week under Ohio act, 171
under Arizona act, 375a.
under British act, 577.
under California act, 263.
under Federal act, 378.
under German law, 584.
under German invalidity and survivors' insurance, 601.
under German marine accident insurance laws, 591.
under Illinois act, 326.
under Kansas act, 292.
under Massachusetts, 303.
under Michigan act, 355.
under Nevada act, 290.
under New Hampshire act, 296.
under New Jersey act, 255.
under Rhode Island act, 367.
under Wisconsin act, 227.

WAIVER,
amount of compensation under Illinois act, 326.
common law rights by acceptance by employé of Rhode Island act, 367.
invalid under Michigan act, 355.

[*References are to Sections.*]

WAIVER—*Continued.*
jury trial under Kansas act, 292.
notice of waiver of common law rights under Massachusetts act, 312.
not permitted under Rhode Island act, 367.
right of action at common law under Massachusetts act, 303.
right of compensation under Massachusetts act, 303.
written notice of injury, 553.

WASHINGTON,
constitutionality of act, 125, 126.
decision sustaining constitutionality of Washington act, 127.
enactment of insurance law, 6.
forms used in administration of act, 131-166.
members of compensation commission, 9.
nature and scope of act, 123.
official safety bulletin, 166.
proposed amendment, 126.
provision for distribution of funds in case of repeal, 124.
rules and directions for administration of act, 128-130.
statistical report of operation of act, 165, 166.
text of act with instruction, 124.
work of commission, 12.

WATER-POWER PLANTS,
factories under Kansas act, 292.

WATERWAY COMPANIES,
instructions under Washington act, 141.

WATERWORKS,
hazardous employment under Washington act, 124.

WATSON,
summary of operation of old and new systems in Ohio, 52.

WEEKLY PAYMENTS,
See COMPENSATION; PAYMENTS.

WEEKLY WAGES,
See AVERAGE WEEKLY WAGES.
under Wisconsin act, 227.

WERNER,
decision construing New York law invalid, 57.

WEST AUSTRALIA,
schedule, 122.

[*References are to Sections.*]

WHARVES,
hazardous employment under Washington act, 124.
schedule of compensation under Washington act, 124.

WHISKY CURE CASES,
analogy to compensation cases, 81.

WIDOW,
See DEPENDENTS; HUSBAND AND WIFE.
dependent under New Hampshire act, 296.
compensation for death of husband under New Jersey act, 255.

WIDOW'S INSURANCE,
under German code 1911, 599.

WIDOW'S MONEY,
under German code 1911, 599.

WILFUL ACT,
under Ohio act defined, 171.

WILFUL MISCONDUCT,
See CONTRIBUTORY NEGLIGENCE.
by employé defeats compensation under Massachusetts act, 303.
burden of proof under New Jersey act, 255.

WILFUL NEGLIGENCE,
defined in New Jersey act, 255.
defined by Wisconsin commission, 231.
defense under New Jersey act, 255.
dismissal of incapacitated person for misconduct, 470.
effect to deprive employé of compensation, 467.
under British act, 577.
under Kansas act, 292.
under Illinois act, 326.
under Michigan act, 355.
under New Hampshire act, 296.
under Rhode Island act, 367.
effect under various American acts, 421.
effect on workman's right to compensation under British act, 577.
employé under California act, 263.
employer under Massachusetts act, 303.
intoxication, 468.
misrepresentation as to age, 469.
under California act, 263.
what is serious neglect, 467.

[*References are to Sections.*]

WINDOW CLEANER,
casual employment, 440.

WINKELBLECH,
views on insurance laws, 23.

WINSLOW,
opinion upholding Wisconsin act, 228.

WIRES,
See ELECTRICITY.

WISCONSIN,
act not compulsory, 228.
application of act to railroads, 227.
circular letter to employers, 236.
commission not a court, 228.
construction of act by commission, 227.
decisions of commissions construing act, 229-234.
decision sustaining constitutionality of act, 228.
enactment of compensation law, 5.
formal procedure under act, 237.
forms used in administration of act, 238-253.
members of industrial committee, 9.
nature and scope of act, 226.
procedure under act, 235.
powers of Wisconsin commission, 230.
rules of practice, 235.
sessions of commission, 235.
statistics of operation of old and new systems, 39.
text of compensation act, 227.
work of commission, 12.

WITHDRAWAL,
See ACCEPTANCE.
acceptance of California act, 269.
election by employer under Illinois act, 326.
employment under Michigan act, 355.
notice by employé under Wisconsin act, 239.
notice by Michigan employers, 360.

WITNESS,
certificate and oath of lay witness under Ohio act, 197, 204.
contempt proceedings for refusal to testify, under Ohio act, 171.
fees under Massachusetts act, 303.
fees under Ohio act, 171.
medical witnesses under Washington act, 124.
power of Massachusetts board to subpoena and examine, 303.
power of Nevada court to compel attendance, 298.

[*References are to Sections.*]

WITNESS—*Continued.*
report of accident under Washington act, 148.
subpoena under California act, 279.
under Michigan act, 355.
under Wisconsin act, 251.

WORKMEN,
See EMPLOYES.
defined, 432.
under British act, 572, 577.
under Kansas act, 292.
under Nevada act, 290.
under New York act, 56.

WORK ON SHARES,
persons not within compensation acts, 434

WORKSHOP,
defined in Washington act, 124.

WORKSHOP ACT,
Ohio, 173.

WRITTEN ACCEPTANCE,
California act by employer, 268.

WRITTEN NOTICE,
injury, under Massachusetts act, 303.

WURTEMBERG,
excepted from operation, code 1911, 596.

Y

YAPLE v. CREAMER,
decision sustaining Ohio act, 172.

Z

ZACHER,
conclusions of review of German laws prior to 1911, 594.
guide to German laws prior to 1911, 579-593.